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VOLUME I.—(NEW SERIES.)

THE MANUSCRIPTS OF THE HOUSE OF LORDS, 1693—1695.

[*In continuation of Historical Manuscripts Commission, Fourteenth Report, Appendix, Part VI.*]

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INTRODUCTION.

The Manuscripts of the House of Lords, being no longer printed by the authority of the Historical Manuscripts Commission, will for the future appear as separate volumes, of which this is the first. For the sake of convenience, they are printed in the same form as the volumes already issued by that Commission.

THIS Volume, which covers two Sessions of Parliament, continues the Calendar to 11 October 1695, when William and Mary's second Parliament was dissolved by the King's proclamation. It begins with the Session opened on 7 November 1693, after several prorogations extending back to 14 March of that year. The recess had been marked by a series of misfortunes on land and sea. In the Netherlands the French had taken Huy and Charleroy, and had defeated the Dutch and English at Landen; and the only important event at sea, since the victory at La Hogue, had been a commercial disaster to the allies, in the loss of the Smyrna Fleet, consisting of English, Dutch, and Hamburg merchantmen. The fate of this Fleet is well known. It had been entrusted, after passing Ushant, to the convoy of a detached squadron under Sir G. Rooke, while the rest of the Main Fleet returned to Torbay. At Lagos Bay it was surprised by a far superior force under De Tourville, who was supposed to be still at Brest. Rooke with his squadron escaped without loss, but had to signal to the merchantmen to shift for themselves. About 80 of the latter were captured, as well as 3 Dutch men-of-war; the rest escaped into Spanish ports.

The King, in his Speech from the Throne, made no concealment of these misfortunes, as a national disgrace, and while urging the importance of a suitable supply being voted for the vigorous prosecution of the war, recommended an enquiry into the late miscarriages at sea. This question was taken up first by the Commons, who voted (17 Nov.) "that there had been a notorious and treacherous mismanagement in the affair,"*

* Com. J. XI. 5.

without attaching, however, any individual blame either to Nottingham, or the Officers of the Fleet, or the public officers, each of whom sought to lay the blame on the other. In the Lords the enquiry began on 11 Dec. with orders for the attendance of witnesses and the production of documents. A resolution "that the Admirals had done well in the execution of the orders they received" was passed on 10 Jan. 1693-4, but not without a vigorous protest signed by nine prominent Whig peers. An attempt to fix the blame of the miscarriages on Nottingham in not communicating to the Fleet the intelligence delivered to the Committee of Council on 30 May, was defeated, on the "previous question," by a majority of one (15 Feb.) and after several Conferences with the Commons, tending to inculpate Secretary Trenchard, the enquiry dropped inconclusively on 3 March.

The mass of papers (No. **765**) laid before the Lords, on which these resolutions were founded, are doubly valuable from the fact that as Dalrymple (i. 41) lamented, the printed Journals contain no record of the evidence similar to that given in the previous year in the recriminations between Russell and Nottingham. They consist, in the main, of three classes—the papers delivered in by the Turkey Company, by the Admiralty, and by the Clerk of the Council. The collections of Admiralty Orders and the Admirals' Letter-book have been digested under various heads, for convenience of reference and research.

The grievances of the Turkey Company—the chief sufferers by the disaster in Lagos Bay—may be briefly stated. After waiting in vain for a convoy for twenty-one months,* the last twelve of which were after the victory at La Hogue (19 May 1692), they were sent forth at length, in ignorance of the enemy's movements, at the very time when the French had secretly matured their plans for intercepting them.

These grievances, so far as regards the waste of time before the convoy sailed on 30 May, had been brought before the Queen in Council during the prorogation, when the King was abroad, by the Company's Petition of 27 July 1693 (pp. 190–3) which recited in detail their fruitless efforts to obtain a convoy, and the ruinous effects of the long delay, and prayed for an

* The Company, in their Information to the House (p. 104) assert "that in any of those months they might have proceeded with all probable safety and security."

enquiry into the causes. This petition—the germ, apparently, of all the proceedings that ensued—was referred, together with the six documents annexed,* on 10 August 1693 (*f*, *g*) to the Committee for Trade and Plantations, and on 24 October to the whole Privy Council, who, after calling for further evidence, presented on 3 November two Reports (pp. 289–90), one dealing with the question of delay, and the other with Rooke's proceedings after parting with the Main Fleet.† Before Parliament met on the 7th, Nottingham had delivered up the seals; the Board of Admiralty had been re-constituted, the three Admirals had been discharged from their commissions, and Rooke had been removed. It remained for Parliament, at the King's instance, to reconsider the whole matter as thus dealt with by the Council.

On the question of delay, the Company in their Petition of 27 July contended that, even if a convoy could not have been ready (as requested) in May 1692, it might have been provided (as they were led to hope and expect) in June or July, when, after the victory of La Hogue, "the enemy were so broken and dispersed, that they were disabled to appear any more at sea in a body that summer." But nothing was done till the end of July, when the Company received notice from the Committee for Trade to be prepared to start by the end of August. After a week's further time to complete their preparations, they were ready on 5 September. Three weeks later, a convoy of six ships was offered them by the Council (28 Sept.), but with a recommendation to consult E. Nottingham, who warned them not to accept it, the French having then a great force in the Mediterranean, but to wait till November, "when a considerable force would depart for those seas." On 14 November they were told by the Admiralty that their ships should be in the Downs by 1 December, but this date was postponed for a month at a Committee of the Privy Council on the 11th, when it was decided that the convoy should consist of 18 men-of-war (12 English and 6 Dutch), though their representatives, who

* The Petition, with the accompanying documents, was annexed to the Information delivered to the House by the Turkey Company.

† There was also a later Order in Council (Nov. 6) to examine into the causes of the delay of the Main Fleet, and Mediterranean Squadron (*see* p. 265). Papers were laid before the Council on this subject as late as Nov. 29 (*g* 20 and *g* 21).

had been summoned to attend, pressed for an addition of six or seven third-rates.

Their ships reached the rendezvous in the Downs in the middle of January, and after waiting for fair winds, came, about 10 February, to Spithead. Rooke was sent thither in haste to command the Straits Squadron, which, as the Admiralty assured them (17 Feb.) was to sail, together with the Main Fleet, "with the first fair wind." Notwithstanding this, more than three months expired before their departure on 30 May with a convoy no larger than that of December, though it was "generally reported," before leaving St. Helens, that the French had sailed from Brest.

The Council, in their Report, dealt with these complaints in rather a summary manner. With regard to the application for a convoy in May, 1692, they simply observe that Her Majesty's service will not allow of a convoy "till the end of that summer's expedition," meaning, of course, the attempt on St. Malo and Brest, after which our Fleet lay inactive, while the French were rapidly reconstructing their own. As to the further delays complained of, no explanation is given, beyond stating that the Straits Squadron was ordered to Spithead on 20 January 1693, and that on 22 February an order was sent to Rooke to continue there till further orders, "which was occasioned upon advices received, that the Chevalier de Nesmond was in the Bay of Biscay with a squadron of great ships, upon which it was thought requisite to send Rear-Admiral Aylmer with a squadron to look after the enemy." He, however, was driven back into Torbay by stress of weather, and on 15 March was ordered to come to Spithead. The Report concludes by stating that on 20 March the Admiralty ordered Rooke to sail with the first opportunity of wind and weather, but that this was counter-ordered three days later, when he was directed to wait "until further order."

With regard to the causes of these delays, the evidence laid before the Lords by the Admiralty and the three Admirals begins with the time lost in waiting at Spithead in 1693. Some part of this time is accounted for, as is shown by the papers, by bad weather followed by calms and contrary winds, and some also, as appears from the "Gazette," by the late arrival of the Dutch

portion of the convoy, which did not begin to join us till the end of March, while Admiral Allemonde, with the remaining five ships, did not reach Spithead till 14 May (p. 185).* But the root of the mischief lay more in the following general causes—the want of ships from which an adequate convoy could be spared, the want of seamen to man them, and the want of provisions for such seamen as could be got. As to these larger questions there is much instructive evidence to be gleaned, but a few points only can be noticed.

The insufficiency of the Main Fleet proposed for 1693 formed the subject of a protest from the three Admirals almost immediately after they received their appointment to command it. In their letter to the Admiralty on 30 January, after comparing the 48 men-of-war (including 8 still on the stocks) which were offered for their line of battle, with the 63 of the previous year, they add; "but admit the line of battle intended could be ready in time, though joined with the Dutch, we judge it not capable of beating the French Fleet, which, we question not, is intended and expected from us" (p. 118). From a list of 81 ships sent to the Admirals on 18 March (p. 119) with instructions to put to sea, and "to annoy the enemy and secure the trade in the channel" (p. 128), it would seem that two ships of the line were added on the strength of this protest, but the condition of several of them appears to have been far from satisfactory, and as late as 11 May we find the Admirals writing to Trenchard that they "humbly conceive that Her Majesty has found out the only expedient at this time of strengthening the Fleet, by joining so many of the Mediterranean Squadron as may be thought requisite"; in other words, by making Rooke's convoy possibly still weaker than that which had been promised in the previous December.

The want of seamen had been constantly complained of by Russell, as noticed in the last volume of the Calendar, and the three Admirals who succeeded him, repeat his complaints in no less forcible terms. On 6 February 1692–3, they submitted to the Admiralty some proposals, including the imposition of fines, to be deducted from pay for "absence without leave"; the grant of a month's bounty to each volunteer entering himself before

* Ralph, ii., 455 and 456.

20 March, and being actually on board by 2 April, in addition to his pay from the time of enlistment; the abolition of certain protections; the impressment of all watermen, including those of the King and Queen; and the taking of greater care to procure seamen from Scotland (p. 147). But on 18 February they are found complaining that "few or no volunteers are coming in for want of usual encouragement, and as to pressing, the seamen fly from them wherever they come, and are protected by those who ought to assist in getting seamen for the Fleet,"—an allusion, in particular, to the case of one Justice of the Peace who had given a protection to a seaman, and caused another Justice to be arrested for impressing him. Again, in urging on 11 March that some speedy course should be devised, they state that small progress was made in getting men, and that the officers employed in the work had "no great hopes that their endeavours would answer the end of manning the Fleet." Proclamations were issued on 20 and 27 February compelling seamen to come in, and offering bounties as the Admirals had suggested,* but, so far as the Admiralty was concerned, their proposals appear to have been fruitless, for as late as 14 May they complain that "no regard had till then been paid to them," though a fortnight before they had given warning that there was reason to fear the number of seamen found wanting would be "much greater than was represented." What expedients were adopted show the straits to which the authorities were reduced. An Order in Council of 30 March directed the Captains of men-of-war to take half the seamen from any English privateer they met (p. 148), but this led to abuse, as is shown in one instance (p. 116), and the Order was suspended on 4 May. Five regiments were put on board the Fleet, by Nottingham's Order from the Queen (2 May) for a purpose which was then kept secret,† but which in part at least, according to Burchet, was to supply the deficiency of seamen.‡ At any rate, they were employed for that purpose, two companie) being

* *See* London Gazette of dates.

† "For some secret design" wrote Luttrell (2 May). Campbell says the troops were put on board "with a view to the disembarkation at Brest, which was a scheme of some of the land generals" (lives of the Admirals III., 122).

‡ Owing to the difficulty of obtaining the requisite amount of bedding in time, it would appear that eventually only four regiments were shipped (pp. 149, 150, 152).

drafted specially on board the *Victory*, and when four of the regiments were finally disembarked on 6 September, a portion of the "land forces in the Fleet" was retained for manning the cruisers and such ships as were likeliest to be continued abroad for the winter service (p. 150), while the services of Marines were requisitioned for "the secret expedition" then in prospect (p. 145).

The practice of "turning over" seamen from one ship to another was still continued by the Admiralty, though the Admirals, like Russell before them, condemn the system, as denuding the great ships of their proper complements, as being grievous to the seamen, and especially the volunteers, who expected to serve on the ship for which they were enlisted, and as discouraging to the officers who enlisted them; and they bitterly complain of the manner in which it was carried out, "without any regard had to us that command the Fleet." Once, it is true (9 Sept.), after the withdrawal from the Main Fleet of the troops and the marines, they confess that they "do not see how the winter squadron and cruisers can be manned, but by turning men into them from the great ships" (p. 152), but the result of so doing was to send several men-of-war into harbour for want of crews. To reconcile the men turned over for "particular service"—in other words, the secret expedition of September—all the Admiralty could offer them was a promise that, before leaving Spithead, they should be paid the wages due to them at the end of the previous March (p. 152). With Rooke's Squadron, turning over had to be resorted to, in order to bring the ships up even to their middle complement, which the Admiralty thought sufficient for the purpose in hand (p. 115). The non-payment of the seamen increased, of course, the difficulties of recruiting; but in this matter the Admirals were to some extent in a dilemma. On the one hand, they "presume men paid clearly off will readily desert the service, as having no tie upon them" (p. 151); and, on the other, they are more than once compelled to press for payment, not only to prevent "clamour" in the Fleet (p. 166), but also on behalf of the sick, for whom at St. Helens, and afterwards at Torbay, it was difficult to get quarters on shore, "by reason of their being very much in arrears" (p. 172). As to desertion in general, they write on 27 September that "the seamen leave their ships

by every opportunity they can, so that, if some care be not taken and effectual orders given to the Civil Magistrates, we conclude it will be impossible to keep the Fleet manned" (p. 155).

The want of provisions forms a constant complaint of the Admirals, in their letters to the Admiralty and Secretary Trenchard (p. 156–66). It was the chief cause of the Main Fleet lying idle at Spithead in May, while the French cruisers were busy in their depredations, and the departure of Rooke's squadron was delayed for the same reason. It was the sole cause of their putting back to Torbay in June (p. 158), and of their remaining there till July, when they could wait no longer for the expected Victuallers; and it was partly the cause of their returning again to Torbay in August, in the hope of finding the Victuallers then arrived there, after having searched for them in vain at sea (p. 162). During all this time, be it remembered, the seamen were on short allowance (drink excepted), four men's rations being shared amongst six. The Queen's Order of 28 April 1693 was to take effect from 1 May, but the Admirals "did not dare to execute it" till the 8th, when, on arriving at St. Helens from the Downs, they received an assurance that the money directed to be paid monthly to the seamen for their short allowances would be sent down by the Victualling Commissioners. That this Order remained in force throughout the summer appears from a letter of the Admirals of 27 September, repeating a request made on 22 August, that whole allowance might be resumed; "for the provisions" they add "being perishable, and not over good, the sooner they are spent, the better" (p. 162). So also, in a previous letter (7 July) they write: "Great complaint is made of the badness both of beer and bread, several quantities of which have been cast by survey, and we have great reason to doubt there will be much more" (p. 164). The object of excepting beer from the Order for short allowance is difficult to understand, unless it were to reconcile the men to the shortening of their dry provisions. The Admirals took care to state that it was not their proposal, and the want of beer was one of their chief difficulties soon after they put to sea. But the issue of the Order at all reveals the straits to which the Treasury was reduced.

A number of papers, including some instructive returns made at various times by the Admirals and the Victualling Office as to the provisioning of the Fleet, show the information supplied to the Council, and afterwards to both Houses, in explanation of these shortcomings. The Victualling Commissioners, in representing to the Admiralty their difficulties in complying with the orders they had received (pp. 265–8), plead, among other things, the shortness and unseasonableness of their supplies of money, and the crippling effect of their debt of nearly 300,000*l.*, contracted in former years; the "dearness and scarcity of provisions, most of which could not be procured without ready money, or the promise of speedy payment," and the extraordinary demands caused by the pressure of ships at Portsmouth, where the necessary supplies could not be obtained, and where, as they allege among other irregularities against the pursers, "most of the merchant ships were supplied with provisions out of their Majesties' ships." They add, also, the want of convoy for their Victuallers, and the absence of conveniences on board the Fleet for the storage of food, more particularly fresh butter and cheese.* The Commissioners of the Navy deal with these excuses in some Remarks (pp. 275–82) in their own justification, which show the friction existing between the two departments. As for the want of money, they observe: "we hope we may be allowed to say, that if that office complains on that account, this has no reason to be silent." The Council, however, after having called for these papers, do not appear to have made any report upon them, and in the Lords they were left to lie on the Table. The Commons, after an adjourned debate, which is reported,† were content to resolve by 188 to 152 (27 Nov.) that there was sufficient beer on board the Main Fleet, when Sir George Rooke separated, to have convoyed his squadron and the merchant ships "out of danger of the Brest Fleet,"—the amendment to add the words "and the

* The Navy Board admit that the cheeses had frequently rotted, by being left to lie in heaps, for want of shelves, but affirm that this want had been supplied, (p. 275). The Admirals complain on 7 July that "a great deal of bread has been damnified for want of the bread rooms not being tinned as heretofore" (p. 164.)

† Grey's Debates 22 and 27 Nov. 1698. The papers delivered to the Commons on the 27th, for the production of which the debate had been adjourned, will be found printed at length in this volume of the Calendar. Their titles are given in the list on p. 264, where they figure as Nos. 12, 13, 14, 16, and 17 of Bundle A.

Toulon Squadron" being rejected by 191 to 165. The Resolution, without imputing blame to the Admirals, sufficed to clear, on this particular point, the Victualling Department, whose accounts showed that the Fleet had enough beer on 6 June—the date of parting—to last at whole allowance for 48 days; but it left the general question of defective victualling untouched.

With a fleet thus inadequate in numbers, insufficiently manned and only half provisioned, the Admirals, on joining the rendezvous at Spithead on 7 May, took up the double task of protecting the English coast, and securing the safety of Rooke's squadron and the merchant ships against an enemy whose strength and movements were unknown.

On 15 May the Admirals held a Council of War which advised "that in the event of no certain intelligence being received of the whereabouts of the Toulon Squadron before the Fleet sailed from St. Helens, the Turkey Fleet should remain there with its convoy till further intelligence were had," and that Rooke and his squadron should keep company with the Grand Fleet (p 176).* This Result, signed by the English and Dutch Flag Officers was personally communicated on the same day to the Lord President who had specially come, with other members of the Council, to Spithead to be present at the Council of War (pp. 230–1),† and the Admirals maintained that had this opinion of theirs been followed, the subsequent disaster to Rooke's squadron would never have occurred (p. 241). In the face of this the Admiralty issued on 19 May an order to the Admirals "to sail first opportunity of wind and weather, together with Sir George Rooke and his squadron" and attendant Fleet of Merchantmen, to whom they were to give directions "what course he should steer in his passage to Cadiz as shall be thought most safe by a Council of War, with relation as well to the Brest Fleet, if gone out to sea, as to the Toulon Squadron" (p. 231.) In their justification the Admiralty, through the mouth of Mr. Priestman, declared in the House that the result of the Council of War of 15 May was only known to them from a letter from the Admirals of the 30 June (pp. 96, 97).

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* *See* Par. 5 of Protest L.J., xv. 339.

† Luttrell, May 13th, 14th, 18th.

Nothing in the meantime being known to the Admirals of the whereabouts of the French Fleet, they deemed the instruction with regard to Sir George Rooke to be "altogether impracticable as well as unreasonable."

The whole Fleet at length set sail on 30 May, and by 4 June arrived at their preconcerted rendezvous 30 leagues W.S.W. off of Ushant. The Admirals then held a Council of War, where it was resolved to accompany Rooke 20 leagues farther "it not being considered safe to go further from the English coast." Finally on 6 June the Grand Fleet parted with the Mediterranean Fleet, and returned to their former rendezvous.

Sir George Rooke gives a full narrative of his proceedings from 20 May till his arrival in Ireland on 28 July (pp. 215–22), in which an interesting account appears of the disaster which befell his Fleet on 17 June. He pays a just tribute of praise to the captains of some Dutch ships, who "when engaged by the enemy, tacked and stood for the shore, thereby drawing after them the whole strength of the enemy." This manœuvre enabled Rooke to escape with all his ships,* but many of the merchant ships were destroyed by the enemy or driven ashore and lost.† Rooke has been blamed for not having discovered the real strength of the enemy in Lagos Bay, with what justice may be gathered from a perusal of the examination of De Lucenay and De Sautieux (two officers taken prisoners early in the morning of the 17 June) and that of Captain Martin (pp. 203–6, 213–15). Both Captain Martin and Rooke admit having had some kind of intelligence, before sailing from Spithead, that a squadron of 15 or 16 ships under Monsieur Gabarette had sailed from Brest, which made Rooke think those only to be the ships first discovered in Lagos Bay. Possibly this was derived from a letter from Brest dated $\frac{8}{18}$ May giving advice that a part of the French Fleet was then out of Brest and the rest coming out; but there is nothing to show when it was received (p. 104, 199). Rooke appears to have been unable to gain any intelligence on his way to Lagos Bay since, "between the North and South Capes he was never nearer the land than 26 or 28 leagues" (pp. 243–6).

* For another account of the engagement *see* Capt. Martin's narrative, (pp. 200–3).

† A list of ships lost between 1st January 1692 and 8th September 1693 proves that Rooke could not have lost a single ship. (p. 106).

The question of Jacobitism in the Fleet was investigated concurrently with that of the miscarriages at sea, and resulted in Mr. Abraham Anselme, Secretary to the three Admirals, being dismissed his employment, and Mr. Bowles appointed in his stead."* An indictment was then preferred against Anselme at the Old Bailey for endeavouring to persuade Mr. Praed and others to enlist men for King James, but the Grand Jury ignored the Bill. The loyalty however of the Navy at this time, is sufficiently apparent from a letter of the Admirals to the Admiralty of 25 June, in which they write "that many of King James's late Declarations have been sent to the Fleet under covert and directed to several officers, more particularly to the boatswains. But we find a general abhorrence of these evil practices, they having immediately delivered such papers to their captains, which they have brought to us."†

The King's speech on the opening of the Session 12 November 1694 contained expressions with regard to the strengthening of our Navy, which caused the Lords, on 25 January following to go into debate upon the state of the Nation. After some discussion as to which of several questions they would first enter upon, a day each was finally appointed for the Lancashire Trials, and the state of the Fleet. Accordingly on the 31st an enquiry began into "the expedition of the Fleets the last summer.‡"

It was to counteract the designs of the French in Catalonia that Russell, who had lately been appointed to the supreme command of our Fleet, was ordered 30 March 1694 to take under his command a fleet of 94 ships "and proceed with the Dutch Fleet to the westward and do his best to harass the enemy without expecting particular orders." He was further ordered on the 24th of April "in case the French Fleet is at Brest or Belle Isle, to attempt to destroy it; in case he hears it is at sea, to search for it but not to go beyond the latitude of Finisterre; and in case he has trustworthy informa-

* He was formerly Secretary to the Lord Torrington (Luttrell iii. 24, 128, 130, 132, 181).

† Sept. 5th, 1693--'Some Officers of the Fleet at Portsmouth drank K. James' health (*ib.* 172)'

‡ Burnet, Tindall, and Macaulay make no mention of this enquiry, but Ralph suggests it was set on foot as a protest against Russell, who had become very unpopular, and that through him it was an attack against the whole administration of the Navy (Ralph II. 562).

tion that it, or part of it, has gone to the Mediterranean or South of Finisterre, to follow and attack it."* On the 30th of May the Fleet sailed, but contrary winds prevented them leaving the Channel till the 4th of June. By this time it was known that the French Fleet had left Brest to join the Toulon Squadron in the Mediterranean,† and it was thought to be a favourable opportunity for making a descent upon that place. On 6 June Lord Berkeley with a squadron of 40 English and 23 Dutch ships, and having on board some land forces under the command of General Talmash, parted from the Main Fleet off Ushant, and sailed for Brest. There is no account among these papers of the disaster which befel this expedition in Camaret Bay, owing to the French, contrary to expectation, being fully prepared for a vigorous defence, and which resulted in the death of Talmash. The full details regarding the composition of Lord Berkeley's Fleet‡ and the text of his orders from Admiral Russell are however fully set out (No. **886,** pp 484–6). After this repulse Lord Berkeley returned with his squadron to Portsmouth,§ but soon sailed again for the coast of France, and after bombarding Dieppe and Havre, arrived at St. Helens on 26 June. Subsequent attempts were made against St. Malo and Dunkirk, while our cruisers received orders to protect our trade in the Channel.

Meantime Admiral Russell, in pursuance of his orders, sailed on with the rest of his squadron to the Mediterranean in search of the French Fleet. Arrived at Cadiz, he took supreme command of all our ships in those parts, including the remainder of Sir Francis Wheeler's squadron (now commanded by Rear-Admiral Neville), which had a few months previously (18 Feb.

* Tourville left Brest on 25 April and passed the Straits of Gibraltar on 4th May (Macaulay IV. 507).

† 15 May. An express arrived yesterday from Admiral Russell dated the 11th instant off Ushant with advice that the French Fleet, being 34 men of war commanded by Chasteau Renaud, sailed out of Brest the 28th past, and took their way towards the Mediterranean (Luttrell iii. 309). See also under 17th and 19th May, *ib.* 311, 312.

‡ Caermarthen says it consisted of 18 English and 11 Dutch ships of the line, while Burchet agrees with list as given above. (Ralph II. 503-4.)

That our intelligence was at fault, appears from the following—

24 May. An engineer is arrived here having been in disguise at Brest, and brought with him a platform of the fortifications of that place (Luttrell iii. 315).

31 May. The French have put a strong garrison into Brest, *ib.* 320.

§ One Dutch ship only, the *Wesep* was lost. (Ralph II. 503.)

1693–4) been greatly damaged by a terrific storm in which Sir Francis lost his life.* The Brest and Toulon squadrons had already joined forces before Barcelona, and Russell on 12 July with his combined Fleet of English and Dutch ships proceeded thither in order to attack them. On his approach the French retired to Toulon, and 8 August Russell received orders to winter at Cadiz, and take the most effectual measures for preventing the enemy from passing the Straits. During the rest of the summer he practically blocked up the French Fleet in Toulon, made himself master of the Mediterranean, and secured our trade with the Levant. The achievement of these results amply justified the policy of the Government in the eyes of the Lords; for 27 February they unanimously resolved "that the sending of the Fleet to the Mediterranean the last year and the continuing of it there this winter hath been a great advantage to his Majesty and the Kingdom" (L.J., xv., 508).

From the various papers that were produced in the course of this enquiry, it is evident that there was great delay in getting the Mediterranean Squadron under weigh. Russell received his first orders to sail 30 March, and it was not till 30 May that he finally left St. Helens for the Mediterranean. As in the previous enquiry (No. **765**) the victualling department of the Navy was partly answerable for this delay, while the other causes which contributed towards it were the difficulty experienced in assembling the various squadrons at Spithead, the defective transport arrangements, the absence of cruisers, and finally the tempestuous weather which prevailed.

On the 1st of January 1693–4 the Admiralty ordered the victuallers of the Navy to provide the Main Fleet with four months' dry provisions from the 1 May, and with beer for from eight to ten weeks. This order had not been complied with 24 May since on that day they are ordered "to report why the Fleet is still one month short of the four months' provisions ordered" (p. 467). The Fleet seems later to have been better provisioned, for on the 9th of February 1694–5, the Admiralty

* The damage done to our ships in the Mediterranean is also suggested by the orders issued to Admiral Neville on the 11th May, to have his ships refitted for sea, and wait for orders instead of sailing for Cadiz (p. 464).

For a list of Wheeler's squadron, distinguishing the ships that were lost, *see* p. 472.

asserted that it was sufficiently supplied with provisions and stores to continue in the Mediterranean till the 1st of September next, "all the accidents that could happen having been considered, and that there are masts and yards over and above what are necessary; we had rather they should bring back than want" (p. 474). The strength of the Fleet in the Mediterranean appears amongst these papers, and the time to which they were victualled (*d* p. 472); also a full list of the Royal Navy (*e* pp. 472–3).

On the 8th of April a French squadron of 20 ships was supposed to have been sighted off the Start, and the Admiralty, on the 11th ordered our ships to be concentrated in the Downs. This subsequently proved to be a false alarm, but it shows that up till that date Russell's fleet was not assembled. Lord Danby was then at Spithead with 15 ships, Sir George Rooke in the Downs with 31 and a few Dutch, and Lord Berkeley at the Nore with 15. Sir Cloudesley Shovell's squadron was greatly delayed by the land forces, under the command of General Talmash, which he was ordered to take on board (11 May). On the 21st he is required to disembark his troops in case the winds continue contrary and wait at St. Helens for Russell, but if the weather is fair to sail either with or without the troops and join Russell at Torbay. A similar order of the same date requires Russell to land the troops at Torbay in order to shift them if necessary from one ship to another. The Commissioners of Transportation delivered a summary of their proceedings which reveals the difficulties they experienced in procuring transport ships for the horses and forage of the land forces (pp. 470–2).

The want of cruisers, and of convoys to protect our trade was very manifest in our Fleet at this time. During the course of enquiry in the Lords a return was presented of the number of cruisers and convoys employed the last year (Nov. 1693 to Nov. 1694) (pp. 474–84). From this it appears that 98 ships in all were utilized. The cruisers ranged from Tynemouth to the Nore, covered the Channel and Dutch coast, the Irish coast from Cape Clear to Dublin, and the Kildare and Orkney Islands. The convoys were employed in the same directions, doing as well the services for Gothenburg, Hamburg "His Majesty to Holland"

transport and victuallers. When remonstrated with for the weakness of various convoys at different times, and for the French coasting trade not being more interrupted, the Admiralty retort that "the number of ships employed will not answer the several services better, neither have we any more ships to set forth; nor can those employed be used to the best advantage, by being so soon or so long at sea as they ought, by reason of the great difficulties we are under to procure seamen." On the other hand some damage was done by our ships to the trade of France, for between 28 March 1693 and 25 September 1694, 180 French merchant ships, two men-of-war, and four privateers were taken or destroyed.* Our own trade, however, had also suffered. A disaster occurred to a fleet of West Indian merchantmen, owing to the withdrawal from the Soundings of a squadron of men-of-war sent there especially for their protection; the reason for this was an order from Trenchard for these ships to form part of a particular service squadron of 25 sail assembling at Spithead, and this in spite of the protest addressed to him by the Admiralty "that trade could not be secured but by a sufficient number of ships to be employed both as convoys and cruisers, and not be taken therefrom for any other purpose." The Lords, as a result of the whole enquiry (some only of the material points of which have been here noticed), agreed to an Address to the King (2 March), in which they draw attention to the necessity for a strong and efficient Navy, and call upon his Majesty "to give effectual and speedy directions for its repair and increase."†

The popular opinion at this time that we were not adequately supported by our allies the Dutch in our struggle with France, seems to have been supported by the Commons, for as the result of a concurrent enquiry in that House they passed 8 April 1695 an Address to His Majesty "That he would be pleased to take care in future that this Kingdom be put upon an equal footing and proportion with the allies in bearing the charge of the present war."‡

The grievances which the Navy at this period had to complain of are illustrated by a Petition presented to the House

* For particulars *see* pp. 494–7. † L. J. xv. 512, 513.
‡ C. J. xi. 309, 316.

in March 1694–5 by Robert Crosfeild (No. **920**). The discontent among the seamen, caused by want of money, bad victuals, and worse usage, was notoriously so great that neither the severest discipline nor death itself could suppress it. Numbers of them were hanged for desertion, and some for demanding their pay, which was called mutiny. An account laid before the House of Commons showed that the sum due to the seamen for wages alone amounted to more than a million of money. Crosfeild had given an account of the seamen's grievances in a book called "Great Britain's Tears," and he now charged the Commissioners of Sick and Wounded Seamen with unlawful correspondence with the French, and with wronging both king and subjects in their accounts. This charge had been before the Commissioners of Accounts since the end of 1693; but apparently had been treated with contempt by them. Crosfeild also charged the Lords of the Admiralty and the Commissioners of the Navy with countenancing criminals in the commission of fraud and embezzlement, and with ill-treatment of the sailors by suspending and delaying their pay.* Witnesses were produced in support of these allegations, and examined by the House, and the papers were then referred to the Commissioners of Public Accounts for examination and report,—a course which appears to have been effectual in shelving the matter, for nearly a year afterwards Crosfeild presented another Petition on the same subject, and the Commissioners of Accounts were ordered to inform the House as to what they had done in the matter. No record exists of their answer, but it appears that Crosfeild was attached in February 1695–6 for distributing a paper reflecting upon the House of Lords. He was however discharged in a week's time.

There was delivered in at the Bar on Nov. 20th by the Secretary of the Accounts Commissioners, pursuant to an Order of the 17th instant, "A State of the yearly supplies of money intended for the Navy for the years 1689 to 1692 inclusive, compared with what was issued for that service and what was deficient; as also of the debt owing to the Navy on 5 November 1688." After an invitation had been sent to the Treasury for any observations they might have to offer, and

* A petition of Crosfeild on this subject, which more fully sets out the grievances complained of, is to be found in Ralph.

subsequently to the Accounts Commissioners for their reply, the matter dropped, but not before both invitations had been acceded to, the results of which will be found among these papers (No. **751**). On their examination it will be found that the Accounts Commissioners maintain that, including what was due to the Navy on 5 November 1688, there was owing, at the end of 1692, close upon £2,000,000, that is to say, that large sum was received short of what had been voted by Parliament for the use of the Navy. This deduction was criticised by the Treasury in their Observations, but stoutly adhered to by the Commissioners in their Reply. Meanwhile in the House of Commons, as the result of a motion for the grant of a supply to the Navy, the Commissioners of Accounts were ordered to deliver "a State of what this House has given for the maintenance of the Fleet during the War, and what they have received thereof." This they delivered 16 November, and amended on the 18th. Here too the Treasury were invited for their observations, which they delivered on the 22nd. Several debates thereupon took place, and on 4 December the Commissioners of Accounts presented their Reply to the Treasury, who in their turn presented a further Reply on Dec. 22. It was during this investigation that Lord Falkland, the senior Commissioner of the Navy, was found guilty and committed to the Tower "for begging and receiving £2,000 from his Majesty, contrary to the ordinary method of issuing and bestowing the King's money." He was however released on petition two days later—on 18 February 1693-4. A liberal supply for the use of the Navy was eventually voted.

On 11 December 1693, in obedience to an Order of the House of the 9th, the Accounts Commissioners presented their Annual Statement of the Public Accounts (No. **764**). It forms the third of a series hitherto unpublished, and probably again led this year to the abortive attempts at passing the Place and Triennial Bills. In the Commons the same Accounts had already been delivered, and ordered to lie on the Table. A study of these Accounts reveals a long list of Free Gifts charged to the Exchequer receipts, which figures also in last year's accounts, though the details are somewhat different, and the conclusion is inevitable, that bribery was still prevalent. The Marquess of Carmarthen, for instance, gets 8,000*l.* as a Free

Gift, and one Richard Harris receives 1,000*l.* The latter's name appears in a list delivered to the House of Commons on 9 December of payments to Members of Parliament, and as receiving 1,000*l.* "as of their Majesties' Free Gift for the use of Shadrack Vincent Esqre." The French Protestants receive this year 11,000*l.* as compared with 13,000*l.* the year before, and the "poor Vaudois" also this year receive less; while the total under this heading comes to a slightly larger sum.* Among the list of Pensioners some interesting details will be found, and in particular an annuity of 1,000*l.* to the Earl of Sunderland's assignee. The charge to the Exchequer of all pensions this year reaches 65,379*l.* 14*s.* 11½*d.* as compared with only 49,026*l.* 7*s.* 1½*d.* for 1692, affording an additional inducement, if one were needed, for passing such a corrective measure as the Place Bill.

Three important projects of constitutional reform re-appear in these pages:—the Triennial Bill, the Place Bill, and the Bill for regulating trials for treason.

As regards the measure known as the Triennial Bill, the question of limiting by Statute the duration of Parliaments was revived first by the Commons, in a Bill of November 1693, which, after a rapid passage through the House, was thrown out, at the final stage, by a majority of ten, on the question whether it should pass (28 Nov.).† Its contents are uncertain, for it never left the Commons, but the title was the same as that of its predecessor of the previous January, as vetoed by the King.‡

* The figures are for 1692, 33,058*l.* 14*s.*, and for 1693, 35,548*l.* 1*s.* 3½*d.*

† C.J., xi. 13. This result, says Macaulay on the authority of numerous pamphlets, "confounded all the calculations of the best informed politicians of the time." But the *Hush Money* pamphlet, which he quotes as making Seymour the contriver of its unexpected rejection, adds in another passage cited by Ralph (ii. 475 *note*) that Seymour himself had predicted and promised in the Cabinet, at the time when the King had vetoed the previous Bill, that the next one would share the same fate, and that this had stolen out as a Cabinet secret. Perhaps the best explanation of the result lies in the words of Caermarthen, in his memorial to the King, (Dalrymple, Part III., Book ii., p. 39) that "his ministers agreed in opinion, that nobody knew one day what the House of Commons would do the next."

‡ Macaulay (vii. 103), asserts that the Bill was substantially the same as that of Monmouth in the Lords, but he gives no authority for his assertion, and the mere identity of title is not conclusive. The question, still unsolved, is whether the Bill was "substantially the same" as the earlier one either as introduced by E. Shrewsbury, or (like Monmouth's) as recast by the Lords and vetoed by the King. The point is important, for in the first case, it would have been a Bill for *annual*, and in the second case, one for *triennial* Parliaments. *See* Hist. MSS. Commission, 14th Report, Appendix Part VI., No. **660**, and Introduction, pp. xiii-xv.

Three days later (1 Dec.), Monmouth laid before the Lords another Bill (No. **759**), the text of which shows its identity, as introduced, with the earlier one in question, as tendered for the Royal Assent.* The Lords, in their division in Committee on the word "holden," retained by an equality of votes the provision for annual sessions, and they added a proviso on third reading, to which the Commons agreed, and which appears from an entry in the Commons' Journal to have been "that a Parliament shall be understood to be holden, although no Act or judgment shall pass within the time of the assembly."† The Bill, however was rejected in the Commons by 197 votes to 127.

The Place Bill brought up from the Commons on 4 December 1693 (No. **786**) was practically a re-engrossment of their Bill of the previous session, which had been rejected by the Lords.‡ Like its predecessor, it enacted that no member should accept an office of profit under the Crown, on pain of being disabled from sitting during that Parliament. The only office excepted was that of Speaker,—a very natural exception, for without it the Commons must have had to be satisfied either with an unpaid Speaker, or with one who, on accepting the Chair, had ceased to be a member of their body. The Lords now amended the Bill, by allowing the office-holder whose seat was vacated, to serve again in the same Parliament, if re-elected,—in other words by enabling him to obtain such re-election at once, instead of waiting for another Parliament§—and by omitting the proviso excepting the Speaker. To the first of these amendments the Commons agreed, but not to the omission of the proviso for the Speaker, on the ground that, being frequently a person "eminent in the law," he was already prevented by his duties in the Chair from practising in the Courts, so that, if he were made incapable of holding any office of profit under the Crown, his election as

* Luttrell's statement to this effect (2 Dec. 1693) is confirmed by the text now published.

† C.J., xi. 40. This is, in reality, a definition of a "Session." The double use of the word "Parliament" in this respect, has made some historians confuse the two meanings of the word at that time.

‡ See Calendar 14th Report, Appendix Part vi., No. **643**.

§ Macaulay, in his zeal for retaining in the House the heads of the great executive departments, but excluding their subordinates, stigmatizes this amendment for not observing that distinction, and thus overlooks its real object, which was to throw on the electors, as the proper judges in the case, the duty and responsibility of choosing, without any such distinction in abridgment of their rights, the persons, whether office holders or not, who should represent them.

Speaker would be to his prejudice. The Lords, after a Conference, yielded this point by 36 votes to 25, but a significant protest was recorded by E. Rochester and Bishop Compton, on the ground that the Speaker, if capable of being corrupted,* might do much more mischief than a great number of the members could do together. The Bill, however, was lost by the veto of the King, and the Commons, after presenting an address of censure on his advisers, carried the matter no further.

Two more Bills for regulating trials for treason, brought up from the Commons in February and December 1694, complete the series of abortive measures leading up to the Act of 1695–6 (7 & 8 Will. III., c. 3). The first of these (No. **798**) differed only from its predecessor of 1691,† as it left the Commons, in excluding outlawries; in supplementing the requirement that the indictment must be found within three years after the offence committed, by providing that no prosecution should follow unless within three years after finding the indictment; in limiting to three the counsel assigned to the accused, and in adding the proviso, as in Section xii of the Act, respecting the coin and the royal seals.‡ It adopted, among others of the Lords' amendments to the Bill of 1691, their requirement that the accused should be allowed to have his witnesses examined on oath, but omitted their provisions for the trial of peers, and the limitation of time for impeachments in Parliament; and substituted five for ten days for delivering a copy of the indictment to the accused, and two for ten days for assigning him counsel. This Bill never reached the stage of amendment in the Lords, for on a motion to reject it, the second reading was negatived, after an adjourned debate at which the King was present, the "Anti-Courtiers" not venturing to challenge a division.

The text of the second Bill, as brought up from the Commons in December 1694, is supplied by a copy, retained by the

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* The then Speaker was the notorious Sir John Trevor, who was expelled the chair in March 1695 for corruption. His salary figures in the statement of the Accounts Commissioners for 1693 as 1,520*l.* a year.

† See Hist. MSS. Commission, 13th Report, Appendix Part V., No. **442** and Introduction, p. xv.

‡ This proviso, so far as it related to the counterfeiting of the King's coin, was borrowed from the Lords' Bill of 1688–9. *See* Hist. MSS. Commission, 12th Report, Appendix Part VI., No. **18**, and Introduction, pp. xiv–xv.

Lords and marked with their amendments (No. **865**), of the original draft returned to the Commons at the last Free Conference, where it dropped. With the exception of a new proviso that the three years' limit for prosecutions should not extend to attempts to assassinate the King, which was retained *verbatim* in Section vi. of the Act, this Bill was a reproduction of the previous one of February. As amended by the Lords it withheld from the accused, before trial, the names of the witnesses for the prosecution, and allowed him only two, instead of three, counsel, but made the Court assign them immediately on his request. Outlawry was again included (Sect. i.) as in the Commons Bill of 1691, but a special proviso was added (Sect. iii.), giving the outlaw the benefit of the Act if he surrendered for trial. Of the two witnesses required for the same treason, either both of them might testify to the same overt act, or one of them to one overt act, and another of them to another overt act, of the same treason (Sect. ii.), but one witness to each of two distinct treasons charged in one bill of indictment was not to be deemed two witnesses (Sect. iv.)* A further proviso enacted that no indictment or process should be quashed for mis-writing, misspelling, or false Latin, unless exception were taken before evidence given, and that such errors should not stay judgment after conviction, though any judgment was made liable to reversal upon a Writ of Error.† (Sect. ix.) Lastly, the Lords again added a clause providing for the trial of Peers (Sect. x.), which will be noticed separately later on.

Though each of the above-mentioned Bills, like their predecessor of 1691, owed its nominal origin to the Commons, it is clear from this and previous volumes of the Calendar, that the merit not only of having initiated this much-needed reform of

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* The importance of this and the preceding amendment, which put a wholesome construction on the Statute of Edward VI., is very clearly explained by Hallam, Const. Hist. III., p. 216, Edit. 1832.

† The Lords' Bill of 1688–9 had provided that Writs of Error should be granted if right and without delay on petition of the heirs of the person attained to the Lord Chancellor, Lord Keeper, or Lords Commissioners of the Great Seal. A curious instance of the reversal of a judgment for treason by Writ of Error at this time will be found under No. **864** of this Calendar, where a person condemned to death for taking part in Monmouth's Rebellion, owed his life to the fact that the judgment had omitted to order his body to be mutilated ("Secreta membra amputentur") at the time of execution, as was the barbarous requirement of the day.

criminal procedure, but of contributing most to the final result, belongs unquestionably to the Lords. It was their Bill of 1688–9*—a Bill which, though limited at first to the trial of Peers, was enlarged before it reached the Commons (where it dropped), into a measure for the protection equally of Commoners —that ultimately, in conjunction with the three clauses (Sections iii, iv, and ix) added by them to the Commons' Bill of December 1694, formed in substance no less than eight out of the twelve sections of the Act, leaving as the Commons' share the preamble, and Sections v, viii and xi, dating from their Bill of 1691, and Section vi from that of 1694.

As regards the Lords' provisions for the trial of Peers, which formed the stumbling-block from the first to the passing of the Act, it is noticeable that not one of them at any time contained any assertion of privilege to the detriment of the rights of commoners. On the contrary their Bill of 1688–9 sought to secure a better class of jurors by raising the property qualification,—a proposal which, for some reason which is not apparent, was never afterwards entertained. For the trial of Peers when the Parliament was in being, "usage" had prescribed that the whole House should be summoned, but this usage had never been confirmed by Statute. A Lord High Steward was appointed as Speaker *pro tempore*, but the collective body of Peers were judges both of law and fact. On the other hand, if a Parliament was not in being, or was prorogued, the trial was by the Court of the Lord High Steward—a court, instituted by commission from the Crown, in which the Lord High Steward was the sole judge on points of law, and the Peers were only triers of fact. For this Court, the quorum of which was 23, it had been the custom to summon only a limited number of Peers, and as the selection rested with the officers of the Crown, it was open, as experience had shown, to monstrous abuses by the party in power. These abuses formed a genuine grievance peculiar to the Peers, and doubly dangerous because they had not the protection afforded in the case of commoners by the requirement of a unanimous verdict. The steps which led to its removal may be briefly stated. The Lords' Bills of 1688–9 and 1691 provided that during a Parliament the whole House should

* *See* Hist. MSS. Commission, 12th Report, Appendix Part VI., No. **18**, and Introduction, pp. xiv–xv.

be summoned, and that for trials out of Parliament, at least 61 Peers, such as sat or ought to have been summoned to sit in the last Parliament, should be summoned to appear, whereof 44 appearing, the Peer might challenge 20 of them peremptorily, and should be tried by the rest, being not less than 24. The clause which they added to the Commons' Bill of 1691 provided that, whether a Parliament was in being or not, *all* the Peers who had a right to sit and vote, should be summoned at least 20 days before the trial, and that they should take the Oath and make the Declaration. The Commons first amended this clause by requiring only 36 to be summoned, of whom 23 were to be a quorum, and by adding a penalty of 1,000*l.* for failure to appear without good cause, but after two Free Conferences, they disagreed to it *in toto*, and, as the Lords insisted on the clause, the Bill was lost. The same clause was again added, with an explanatory preamble, to the Bill of 1694 and with the same result, but the contested provision was ultimately included in the Act, which secured for the first time, in the words of Blackstone,* the "equal right of all the Lords to try their fellow Peers."

One measure affecting the Revenues of the Crown was passed in 1693–4. This was the Royal Mines Bill, for preventing disputes and controversies concerning Royal Mines (No. **789**), resembling a Bill on the same subject which had come before Parliament in 1692 and failed to obtain the Royal Assent; but differing from it in giving the King thirty days instead of fifteen during which he might exercise his right of pre-emption.

In regard to ecclesiastical and religious matters there are some papers of interest. A Commons' Bill of March 1693–4 (No. **820**) represents another futile attempt to facilitate the recovery of small tithes. Like the Commons' Bill of 1691–2† it contains, with some variations (to be noticed in a future volume of the Calendar), all the sections of the Act of 1696 (7 and 8 Will. III., c. 6) with the exception of the fourteenth. It differs only from its predecessor, in omitting the clause excepting the Peers from the benefit of its provisions, in substituting 20*s.* for 40*s.* as the value of the tithes recoverable

* Commentaries iv., 440.

† *See* Hist. MSS. Commission, 14th Report, Appendix Part VI., No. **511**, and Introduction, p. xvi.

under the Act, and in making the Act continue for three instead of seven years.* It omits also those of the Lords' amendments to the previous Bill which gave alternative powers to the Ordinary or Ecclesiastical Judge, those which extended its provisions to the recovery of wages and dues belonging to parish clerks and sextons (the Commons added churchwardens' rates); and those which gave an appeal to Quarter Sessions on the question of what was reasonable security in Section viii. The first of these amendments had been fatal to the Bill, but the others had been accepted by the Commons. The Lords abstained now from reviving them, but they added two new provisoes,† one to prevent owners of land affected from acting under the Bill as Justices of the Peace, and the other excluding lay patrons, which was disagreed to by the Commons, and caused the Bill to be dropped after a Conference.

A Simony Bill, disabling a patron from ever again presenting to a benefice in respect of which he had made a simoniacal contract, was read a first time in Feb. 1694–5 (No. **903**). As introduced, the Bill gave the presentation in such cases, "after the King's turn," to the Bishop or Archbishop for the life of the patron; in Committee it was altered so as to give the presentation to the King. A proviso exempting Bonds of Resignation was ordered to be added, but the Bill was not proceeded with.

A Proviso inserted by the Lords into the Mutiny Bill of 1693–4, giving to soldiers complaining of detention of their pay by an officer or agent an appeal to the Privy Council (No. **817**) was no doubt intended to prevent malpractices in making deductions from and keeping back the pay of the soldiers, such as those which were disclosed later on by the inquiry into the Royston Petition; but the amendment was disagreed to by the Commons and not insisted upon by the Lords.

One of the objects of the Act of 1688 prohibiting trade with France was the encouragement of privateering, in order that the enemy's trade might be harassed by privateers as well as by their Majesties' ships, but the terms of that Act were apparently not sufficiently favourable to induce privateers and officers in the Navy to bring in prizes, and two Bills were sent

* The Act of 1696 was continued first for three years, then for a further seven years, and made perpetual in 1704. It was repealed in 1887.

† See C. J., xi., 152–3.

up by the Commons, one in 1694 (No. **834**) and the other in the following year, (No. **936**) to remedy this failure. Neither of these Bills became law, for in each case a prorogation put an end to the proceedings. A clause from the Bill of 1694 reappeared in a different form in a Bill introduced next year to make the Trade with France Prohibition Act of 1692 take effect from the date of the Royal Assent, and not from the first day of the Session in which it had been passed. The Commons inserted a proviso excepting by name a ship which had been recaptured between those dates, and was claimed by the former owners under the Act, but the Lords disagreed to this amendment, and the Bill dropped after a Conference (No. **932**).

An attempt to encourage foreign sailors was made in March 1694–5, when a Bill to naturalize all strangers, being Protestants, who could bring a certificate of having served at sea for three years, was brought in by order of the House (No. **921**). The Commissioners of the Admiralty stated that there were 50,000 men employed in the Fleet, and that more were wanted, and thought it reasonable to encourage foreign seamen to come into England; but the Bill, which required them to take the oath of obedience and supremacy within a year of their arrival, was laid aside in the Commons.

There are several papers in the Calendar relating to trade and industry.

The effect of the war upon the trade of the country is illustrated by the Silk Importation Bill of 1693. An Act prohibiting the importation of thrown silk except that grown in Italy, Sicily, and Naples, and shipped according to the Navigation Act, had been passed in 1689; but, "in regard of the hazard occasioned by the war," this Bill allowed importation from any place except France. Petitions from the Mercers (No. **777**) and others relating to the Bill were heard, and the last clause of the Bill was struck out by the Committee to whom it was referred.

A petition was received in March 1693–4 from the Braziers and Founders of England (No. **818**) against the Iron, &c., Exportation Bill, which had come up from the Commons in that month, and proposed to repeal several Acts prohibiting the exportation of Iron, Copper, and Bell Metal.

A Petition of the East India Company to be heard against the Saltpetre Importation Bill, which was brought from the Commons in March 1693–4, alleged that it was contrary to the Navigation Act of Charles II. (No. **821**). The Company were obliged by their charter to supply the King with 500 tons of saltpetre a year at a fixed price, and were anxious to have a monopoly of the importation; but it was stated at the hearing of the Petition that the price had gone up from 40*l.* or 50*l.* to 160*l.* a ton, and that during the war 2,000 or 3,000 tons were required. The Bill, which proposed to allow the importation for one year, was, however, passed in spite of the opposition of the Company.

Under the title of "An Act to prevent the decay of Trade in Cities, Corporations, and Market Towns" is disguised an attempt to forbid hawkers and pedlars to sell the wares of "settled traders," except in open fair or market, or in a shop or warehouse; the traders specified being drapers, mercers, haberdashers, grocers, stationers, and glass-sellers, with exceptions in favour of "real workers and makers," as well as tinkers who carried about the materials for their trade. A similar Bill in 1692–3 had expressly exempted persons called packers or traders who carried manufactures from town to town and sold only to shopkeepers or at fairs; but this exemption does not appear in the present Bill (No. **830**). The Act of 1696–7 contains several provisions taken from these Bills, both of which passed the Commons, but were rejected by the Lords.

A further attempt was made in 1694 to encourage the building of good and defensible merchant ships, which might in time of need be used in the line of battle, by granting a rebate of Customs dues in respect of 450 ton ships carrying 32 guns and with three decks. A Bill with this object came up from the Commons, was considered by a Select Committee assisted by a Report from the Trinity House, and proposals by the Customs authorities, and eventually became law (No. **835**). A similar Bill had been brought in in 1691, but had dropped with the prorogation.

One of the subjects mentioned in the debate on the state of the Nation in Jan. 1694–5 was "The money, and the King's recommendation to Parliament to consider of the easiest ways

to prevent its transportation at the least charge." The state of the coinage, which had been getting worse every year, and the drain of bullion from the Kingdom, had frequently been discussed in Parliament and various remedies suggested. In April 1694 a Coin Clippers Discovery Bill (No. **831**) imposing penalties on persons dealing in clippings or molten silver, and providing for the seizure of bullion which did not bear the Custom House mark, had been sent up by the Commons; but after hearing the views of the Goldsmiths, and accepting their offer to bring in a Bill in the next Session, the Committee to whom it was referred had reported that it would prohibit importation of bullion and would not prevent clipping (see also No. **833**). The House now appointed a Committee to draw a Bill to prevent clipping and debasing, with power to consider of ways to prevent the exportation of money. The proposals of the Goldsmiths and the Officers of the Mint and a statement of the exports of bullion were laid before them (No. **908**), and with the assistance of Chief Justice Holt a Bill was drafted (No. **912**). It was directed against clipping of counterfeit coin and traffic in clipped money (which were made high treason), and against melting, coining, and traffic in bullion, except between the importer and the goldsmith or in the open shop of the latter, for which severe penalties were imposed. As passed into law it did not contain a clause inserted by the Lords during its progress through the Upper House making the exchange of more than thirty shillings in gold for clipped money an act of high treason, but a clause appeared which made traffic in clippings punishable by branding in addition to a fine of £500, the penalty having been fixed by the Commons.

With regard to the law affecting creditors and debtors, a Petition to the House from poor prisoners for debt committed since 28 Nov. 1690 (No. **792**) prays for an extension of the Act of 1690 to 13 Feb. 1692, by means of a clause to be inserted in the Prisoners for Debt Relief Act which came up in January 1693–4. The war with France is made responsible for a Bill (No. **814**) to enable Merchant Insurers who had suffered great losses owing to the war to compound with their creditors, but this and the next Bill (No. **815**) for the better recovery of Bankrupts' Estates, and for the more equal distribution thereof, were both rejected by the Lords in March 1603–4, after

passing through the Lower House. An Insolvent Debtors' Estates Bill (No. **882**) providing for an equal distribution of the Estates, with provisions mainly taken from the Bankrupts' Estates Bill (No. **815**), was introduced on 25 Jan. 1694–5, and the Judges were ordered to bring in a Bill to prevent the present inconveniences in distribution of Bankrupts' Estates; but no further proceedings are recorded. Another Bill relating to creditors and debtors was the Creditors' Relief Bill, introduced in Feb. 1694–5, which enabled a majority of the creditors to make a composition with the debtor, provided he furnished an account of the estate; subject, however to an appeal to the Lord Chancellor within a year by any of the other creditors. The Bill was committed to a Select Committee, on a petition being read from the merchants of London, but the Committee apparently never met (No. **911**).

A Bill for the extirpation of superstitious trusts and uses, by which such trusts and uses were vested in the Crown, had been introduced in 1692 and referred to the Judges for consideration (No. **641**), and a somewhat similar Bill, which also included trusts appointed by Popish Recusants of which the particulars were not expressed, was brought in in 1693 (No. **745**). During its passage through the House it was amended so as to make the property which was the subject of any such trust pass to the nearest Protestant heir, just as if the grantor and any intervening Popish heirs were dead. The Bill, however, dropped in Committee.

The House of Commons sent up in March 1693–4 a Bill providing that in cases where persons became Special Bail the sum in which the defendants and their sureties were to be bound should be fixed, it being alleged in the preamble that this was not usually done, and that such persons were often charged with greater damages than they expected; but the Lord Chief Justice and Lord Chief Baron stated that the case was otherwise in their Courts, and the Bill was not proceeded with (No. **824**).

An Oaths Bill, introduced in March 1694–5, requiring barristers, solicitors, notaries, &c. to take the oaths of allegiance appointed by the Oaths Act of 1688, under the penalties mentioned in the Statute of Provision and Præmunire, passed through the Lords, but was dropped in the Commons (No. **919**).

The City of London appeared in opposition to a Bill originating in the Commons, which exempted apothecaries from serving on juries, or as constables, scavengers, &c. The City authorities objected to the exemption, which was apparently suggested by a Bill of 1689 relating to physicians, unless the apothecaries were also exempted from beneficial offices (No. **884**).

The Lancashire trials, which had taken place a short time before the Session began, probably suggested the introduction of a Bill in 1694 making wilful perjury in certain cases felony; but after it had been carefully amended by the Judges, in order to prevent the discouragement of prosecutions, the Bill was rejected (No. **860**). Against this rejection several Peers protested, because it had appeared "very lately" how great need there was of such a Bill.

The Licensing Act of 1662, establishing the censorship of the Press, which was originally passed for two years, and had been continued from time to time, was about to expire with the Session of 1694–5, but the Lords inserted a clause in the Expiring Laws Continuing Bill to carry it on for a further period (No. **924**). The Commons, however, who had already voted against the inclusion of this Act among the measures to be kept alive, disagreed to the amendment when the Bill was sent back to them, and as it was not insisted upon by the Lords, the Act came to an end on May 3rd, 1695, an important event in the history of the Press.

A number of Estate Bills, most of them for the sale or lease of lands, were introduced during this period; a few of them may be noticed. A Bill for the payment of the debts of John, Lord Stawell, corresponding largely with the one which had been abandoned after much discussion in 1692–3, was brought in and passed in 1694 (No. **801**). During the hearing Lady Stawell and Lady Howard of Escrick had chairs placed for them at the Table of the House. The Bill was for five days before a Select Committee, notice to the creditors that they would be heard on the second day having been given by fixing the Order on the doors of the House. The object of a Bill brought in in February 1693–4, but thrown out in the Commons, was to increase the present maintenance of Henry Cavendish, second son of William, Earl (afterwards Duke), of Devonshire, and to

provide a jointure for such woman as he should marry during the lifetime of his father (No. **805**). The abduction of an infant Baronet caused the introduction, at the instance of his next friends and relations, of a Bill to compel Major Edward Williams to produce the person of Sir Paul Pindar (No. **867**). Evidence was given on behalf of the promoters of the Bill that the boy had been carried away by force on the occasion of his mother's funeral by Williams (son of Sir William Williams), who was his uncle by marriage, and that when Orders were obtained from the Courts for his production, the messengers sent down to Wales to execute them were assaulted and imprisoned, and one had thumb-screws applied to him in prison. In a printed case for the House of Commons, Williams stated that the Bill had passed "without his being heard before the House of Lords," and the House taking exception to this expression, the solicitor who had drawn the case was reprimanded at the Bar. The Bill was eventually thrown out in the Commons. In the case of Sir Thomas Hare, three younger children had been born since the date of his will, and it had become necessary to provide for them by an Estate Bill (No. **872**). There was some difficulty in obtaining the consent of Mr. Walpole of Houghton, who was one of the executors, because he desired to place some part of the charge upon Lady Hare's jointure, but eventually an agreement was arrived at. The marriage of Lord Tavistock, grandson of the Duke of Bedford, to Elizabeth Howland, grand-daughter of Sir Josias Child, was the occasion of two Estate Bills being brought in (Nos. **905, 909**). Lord Tavistock, son of William Lord Russell, succeeded his grandfather as 2nd Duke of Bedford and was created Baron Howland of Streatham. No. **800** is a Bill to enable Lord Thanet to make a lease for 60 years of Thanet House in St. Botolph's parish, Aldersgate. Another "great mansion house" formerly occupied by the Earl of Middlesex, in or near St. John Street, Clerkenwell, is among the property dealt with by Gardiner's Estate Bill (No. **761**). The Royal Assent was refused to Brooke's Estate Bill in 1695 (No. **888**), but a Bill to the same effect was passed with some alterations in the following year.

Among the private Bills is one promoted by William Gulston, the owner of a system of pipes through which the inhabitants

of Southwark got their water, empowering him to break up the streets for waterworks purposes (No. **771**). The City of London, as owners of the soil opposed the Bill, with the assistance (as it afterwards came out) of Lord Mulgrave, and after hearing Counsel on two Petitions and taking evidence as to the manner in which they had been got up, the House resolved not to revive the Committee to which the Bill had been referred.

An invention whereby salt water was to be made fresh, clear, and wholesome had been the subject of a Patent granted by Charles II. to Col. Walcot in 1675, and when it expired in 1683, another Patent was granted to Col. Fitzgerald for an invention of the same kind. Walcot brought in a Bill in 1692–3, and again in 1693–4 (No. **825**) and 1694–5 (No. **910**), to renew his Patent for a term, and the last-named Bill, though opposed (like the first one) by Fitzgerald, ultimately became law.

The case of the City Orphans came before Parliament again in 1693–4, when another Bill was introduced into the House of Commons for their relief.* In 1690 it had been stated that the debt was £500,000 or £600,000, and the Bill which now came before the House promoted by the City of London, having been passed through the Commons by means, as was afterwards discovered, of lavish bribery, and which eventually became law, proposed to raise a sum sufficient to pay interest at 4 per cent. on the debt by imposts on the City lands and aqueducts, and on personal estates in the City, and by duties on wine and coal imported (see No. **822**).

The Bill for naturalizing foreign seamen (No. **921**) has already been noticed, but in addition to this Bill and the Bill for naturalizing foreign Protestants, which caused so much excitement in the Session of 1693–4, various Private Bills to naturalize specified persons came before Parliament in 1693–4 and 1694–5 (Nos. **811, 828, 857, 871**). A Petition against one of them (No. **828**) was presented by a farmer of the duties payable upon goods exported or imported by aliens, and stated to the House the loss which he would sustain by such naturalization. Another of these Bills was rejected after third reading, "notice being taken that the Bill runs in their Majesties' names,

* For the Bills introduced in 1690 and 1691 *see* 13th Report Nos. **329** and **434**.

and yet is to take date from the first day of sessions, and it being more than a literal amendment"* (No. **857**).

The usual number of Appeals were presented during this period, and a few of them may be noticed as being of interest. A case reported in Shower and elsewhere, turned upon the question whether the Clerk of the Peace for a County must retire from his office on the removal of the Custos Rotulorum by whom he had been appointed, or whether under the Act of 1688 he could continue in office during good behaviour (No. **746**). A grant by Charles II. of the profits of a clerkship in the King's Bench was the subject of a Petition by Isabella, Duchess of Grafton, and her Trustee William Bridgeman against the Judges of the King's Bench, who had refused to seal a Bill of Exceptions (No. **755**). The Writ of Error was brought in in November 1693 and arguments were heard as to whether the Judges were bound to sign the Bill of Exceptions, whether the Duchess ought to have gone elsewhere for her remedy, and whether the case could be tried by the House; but finally she was allowed to withdraw her Petition.† The Duchess and other Peeresses had chairs placed for them within the Bar during the hearing, which lasted for six days: The "presence" was ordered to be called over on several occasions, and on Dec. 20 it was ordered that all the Lords who were present on the first day should be summoned for the 21st, and that the House "expects a just excuse, and the messenger to give the House an account." An Order was also made that no Lord sit at the Table in the Clerk's place while the House is sitting.

The celebrated case concerning the estate of the Duke of Albemarle came before the House once more in 1693-4 and was argued at great length (No. **776**). The Duke before going out as Governor of Jamaica, had settled his estates on the Earl of Bath and others, in order, as he said, to prevent their going to the descendant of a regicide. After his death in 1687, the Duchess set up a later will which she had persuaded him to make, but the proceedings were stopped by Lord Bath, who insisted on his privilege, and when Lord Bath in his turn

* The Queen had died since the First Reading.

† Luttrell says (21 Dec. 1693) she made a compromise with the Chief Justice (Holt), and was paid 1,500*l.* a year by him and his brothers during their lives. A summary of the case is given in Shower's cases in Parliament.

endeavoured to establish the earlier will and a deed of settlement. he was stopped by the marriage of the Duchess* with Lord Montagu, and by her husband insisting on his privilege. The present Appeal from the dismission of the Duchess' Bill in 1691 was dismissed after the hearing had lasted eleven days.

A lease of the Ballast Office forms part of an estate which was the subject of litigation between the widow of the owner, her second husband, and the trustees of the children (No. **781**).

In No. **758** the lessee of certain rights of improving the river Ouse between St. Ives and Bedford appeals against a division of the tolls between himself and the representatives of the original patentee, which had been decreed by the Lords Commissioners. The famous case of Skinner *v.* The East India Company came before the House again in 1693, in the shape of an Appeal against a decision of the Court of Exchequer. The Petitioner describes the seizure in 1659 by the East India Company of his goods, warehouse and ship, and also of the Barella islands, which he had bought from the King of Jamby, in order to carry out a contract for the supply of pepper (No. **763**). Charles II. had twice referred the matter to Lords Referees, and finally to a Committee of the House of Lords, but before the Committee had made their report, the Company petitioned the House of Commons, objecting to the jurisdiction of the Lords, and a difference arose thereupon between the two Houses which was only ended by their acceptance of the King's proposal that the whole record of the proceedings should be erased from the Journals both of Lords and Commons. In the end the Petitioner got no redress for his wrongs, although the King had promised that the Company should make him satisfaction. The Appeal Grahme *v.* Stamper, in which the Appellant had been Keeper of the Privy Purse and Master of the Buckhounds to James II., raised the question whether he was liable to the Respondent for the lace supplied for the huntsmen's liveries—arrears due at the time of the King's departure from the kingdom being still unpaid (No. **770**). The collection of Hearth Money forms the subject of

* It is said that the Duchess, a daughter and heiress of the Duke of Newcastle, had become insane (Walpole says from pride) before she married her second husband; that she imagined Lord Montagu to be the Emperor of China, whom she was destined to marry, and that she was treated by her servants as an Empress till her death at the age of 98.

an Appeal (No. **788**) by the collectors appointed by Letters Patent from Charles II. The Respondents had been sub-collectors under the Farmers of the Revenue, and being again appointed when the King took the management of the Revenue into his own hands continued in that office until the Revenue was taken away in 1689 by Act of Parliament. An Appellant who had added words of his own to a copy of an Order of the House, in order, as he said, "to explain the meaning," was brought to the Bar, and reprimanded on his knees (No. **790**). The right of the city of Carlisle to impose tolls on cattle and goods passing out of or into Cumberland was the subject of an Appeal brought by certain merchants who had refused to pay (No. **807**). The tolls were stated to have been granted in consideration of the defence which the city had been to the county against border robbers. The profits from a charitable bequest of houses and land in the Isle of Ely, diverted for nearly thirty years from the purposes to which they had originally been devoted, are claimed by the Attorney-General on behalf of the poor of Leverington (No. **812**). The sale by a Clerk in the Navy Office of an Office of Trust is disclosed in No. **847**: The purser's place in H.M.S. *St. George* having been given by Mr. Samuel Pepys to the clerk, by way of compensation for not being promoted in the office, and having been sold by the latter for 400*l.* The question whether removal from the Commission of the Peace could be called a loss, the office not being a profitable one will be found debated in No. **850**, while cases relating to prominent county families are illustrated in Nos. **851** and **854.**

Certain ecclesiastical cases may be worth noting such as that which raised the question whether the Bishop of Exeter was justified in refusing to institute because the presentee, who had previously held another benefice in the diocese, was illiterate, or insufficiently learned (No. **806**).* Another question came before the House on a Writ of Error, which affected the powers of the same Bishop as Visitor of Exeter College, Oxford, he having deprived the Rector of that College for contumacy (No. **846**). In the case of Dr. Tenison the Crown claimed the right of presentation to the living of St. James' Westminster, because the incumbent had been collated to a bishopric (of

* Reported in Shower.

Lincoln), whereupon a successor had been appointed by the Bishop of London (No. **853**). In another case the Great Tithes of a farm in Sussex were in dispute; the Vicar of the Parish having been allowed to take them up, apparently because he had married a servant of the lessee and lived in his family (No. **913**).

The difficulties which beset residents in Ireland during the late troubles there are illustrated in the transactions recorded in No. **914**. During the proceedings in the case of Amyas *v.* Champante, one of the Respondents who lived in Ireland not having put in an answer, an account of the Irish mails received between March 16 and April 9 1694–5 was laid before the House, from which it appears that the time taken by letters in coming from Ireland varied from six days to sixteen.

The Calendar contains several papers relating to cases of Protection and Privilege. Regarding protections granted by Peers to their servants, an important step was taken by the House in April 1694, when an Order was made, declaring any protection to be void, unless entered ten days before the end of the session. This Order was made in consequence of a case brought before the House in which a protection more than two years old which did not appear in the "Parliament book" was put forward (No. **836**). Another Order made in March of the same year (1693–4) directs that no Lord should enter a written protection in the Book of Protections, unless he had attended the House in the same session in which it was entered. Two cases of the arrest of Peers' servants may be found interesting; one concerns a servant of the Duke of Southampton employed in the Custom House (No. **753**), the other a servant of the Earl of Portland (No. **767**). In the latter case the bailiff who had made the arrest escaped from the Bar without paying the fees, and when the Deputy Serjeant at Arms re-took him at Uxbridge, he was rescued by his friends and the Deputy Serjeant arrested for assault.

Privilege of Parliament was complained of in three cases. In the first, Sir James Butler complains that Lord Ossulston had delayed a suit of the Queen Dowager by first waiving and afterwards insisting upon his privilege (No. **760**). In the case of E. Montagu *v.* E. Bath, one Thomas Pride, petitioning as right heir to the 1st Duke of Albemarle, complained that the two

Earls, by insisting on their privilege, were preventing him from asserting his right, and obtained an Order of the House that they should waive their privilege in any suit begun by Pride in relation to the estate (No. **776**), while in the third case, Dame Margaret Standish petitions that a prosecution to obtain possession of a lead mine may not be obstructed by the privilege of Lord Willoughby of Parham, who is only concerned as a Trustee. The Petition was referred to the Committee of Privileges, but Lord Willoughby shortly afterwards waived his privilege.

Besides the cases already mentioned some minor cases connected with the privilege of Peers came before the House at this period. In the course of one of them Black Rod's messenger was reprimanded for allowing one of the prisoners to escape; but the prisoner explained that he deserted the Usher because he had been subpœnaed as a witness at Northampton assizes. A case which was referred to the Committee for Privileges, concerned an attack upon the Lord President's rabbit warren on Wimbledon Common (No. **757**).

The Privilege of the King's servants, which had always been recognized by the House and guarded by the Lord Chamberlain, was abolished in 1693. It had been allowed in the case of the Windsor Herald, whose petition was referred to the Committee for Privileges early in November of that year (No. **749**); but in the same month, on a petition being presented by one of the Gentlemen of the Privy Chamber complaining of arrest (No. **754**), it was resolved by the House and made a Standing Order, "That this House will not receive any petition for protecting their Majesties' servants." A protest was entered against this Order and considered by the House a week later, when the fifth reason, viz.:—that it seemed "to bear hard upon their Majesties' privileges, no reason being given for the same" was expunged from the Journals. In an Appeal which came before the House in 1694–5 John Duvall pleaded privilege as a Gentleman of the Privy Chamber; but permission to proceed against him was obtained from the Lord Chamberlain (No. **906**).

The only claim to a Peerage which occurs during this period is that to the Barony of Broke in 1694 (No. **859**); and is well known as the "Willoughby de Broke" case, fully described by

Collins* and Cruise,† and other works on the subject. The Petitioner, Sir Richard Verney, claimed as lineal heir to the barony created in 1492 by a writ of summons directed "Roberto Willoughby de Broke, Chevalier." The pedigree, which had been examined and admitted by the heralds in Chapter, was not disputed at the Bar. The question which on this occasion was decided against him, turned mainly, if not entirely, on the effect of the abeyance of the barony in 1522, by descending to female co-heirs, in which case, it was argued by the Attorney-General, it became vested in the Crown, conformably to the opinions of the Judges in the case of the Earldom of Oxford, and the King could either hold it in abeyance or extinguish it. The claim was negatived (10 Jan. 1694–5) without a division, after tellers had been named, and a Select Committee was appointed to draw up a report to the King, but after collecting various precedents, which are given, their report against the claim was delayed until February of the following year. In the meantime some of the Peers who were interested induced the House to consider the question again, and after hearing counsel and the Heralds, it was resolved that when a peerage had fallen into abeyance among daughters, and they died, only one of them leaving issue, such issue had a right to demand a summons. The principal objection to Sir Richard Verney 's claim having been thus removed, he presented another petition in 1695–6 claiming the title of Willoughby de Broke, and this time the decision of the House was in his favour.

Another question which came before the Committee of Privileges in 1694 was whether the son of a Peer's son called by writ into his father's Barony, becomes a Peer on his father's death. No precedent could be found to decide this point, which arose in the case of the grandson of the Earl of Burlington on the death of his father, who had been summoned as Lord Clifford of Launsborough (No. **844**). The House decided that the grandson had a right to a writ of summons to Parliament; but a question as to the precedence of sons of Peers so called by writ, which arose respecting this case and that of Sir Richard Verney, was left unsolved, in spite of the precedent in 32

* Proceedings, &c. on Claims and controversies concerning Baronies by Writ, &c.

† Treatise on the origin and nature of Dignities, &c.

Charles II., when the Duke of Norfolk's son sat as premier Baron.*

The non-attendance of the Judges was the subject of a severe reprimand addressed to them by the Lord Keeper on 9 Feb. 1693–4, an Order for their attendance having been made on the previous day (No. **796**). A new Order was made that two Judges should attend every day during term time, but apparently without effect, as the reprimand had to be repeated in December of the same year.

The Trial of the Lancashire and Cheshire gentlemen accused on the evidence of Lunt, a former Jacobite agent, of complicity in the Plot had taken place in the autumn of 1694, and had caused intense excitement at Manchester, where the popular sympathy was strongly in favour of the prisoners. The case had an unexpected termination, for the informer Taff, who had been instrumental in bringing the affair to the notice of Trenchard, disappointed of the reward he expected to get from the Government, had sold his services to the other side, and came forward at the trial to declare that the whole thing was an invention. This evidence, though not given on oath, as Macaulay's account seems to imply, was sufficient to cause a collapse of the prosecution and the prisoners were triumphantly acquitted. The Jacobite party, elated by this result, loudly complained of the action of the Government in instituting the prosecutions, and of the way in which they had been managed by the Judges. In consequence of these complaints an enquiry was instituted by the House of Commons into the whole proceeding, and after long examinations and debates it was resolved that there were sufficient grounds for the prosecutions, and that a dangerous plot had been carried on against the King and Government. This verdict was a disappointment to the party, and in hopes of being more successful in the House of Lords, they carried their complaint thither; but with no better success, for after holding an enquiry into the conduct of the trial, at which the Judges, the Counsel, and numerous witnesses were examined, the House resolved that there were sufficient grounds for directing the prosecution, and that the Judges had done their duty according to law (No. **881**).

* May.

An enquiry into certain transactions between Lord Normanby, the persons interested in the convex lights, and the City of London, in relation to the Orphans Bill, originated from a report that some words reflecting upon the House had been used in a case in Chancery, where it had been stated that a share in the convex lights worth 1,000*l.* or more had been conveyed by Hutchinson to one Russell (an agent of Normanby's) "to make an interest in the House of Peers." It appeared that while the Bill was under discussion Lord Normanby had left the House to interview the parties and induced them to come to an agreement with Hutchinson, by representing to them that unless they did so the Bill would be lost. He had apparently been still more useful to the other side; for it was elicited that he had obtained from the City a lease for 100 years of five acres of land in Conduit Mead, (described as being behind Clarendon House)* at a rent of forty shillings a year, for his services in the House of Lords in throwing out Gulston's Bill and passing the Bill for the relief of the orphans. When the inquiry had been completed, however, the House decided that there did not "appear any just cause of censure" upon Normanby; from which decision seven peers dissented (No. **926**).

Several Papers in the Calendar are connected with a series of investigations made by the House of Commons in 1694–5 into the corrupt practices which at that period were widely prevalent among officials and public men. A Petition from Royston to the House of Commons, complaining of the exaction by troops quartered there of subsistence money from the inhabitants which has already been mentioned, led to the discovery that the men had been defrauded of their pay, and that a system of bribery existed in relation to military matters, in which the Colonels of the Regiments, the Agents and the Regimental Clothiers were implicated. As a result of the proceedings on this Petition, Guy, the Secretary of the Treasury was dismissed for receiving bribes from the Agents, and a Bill (No. **937**) was passed through the House to imprison Craggs and Harnage, army clothiers, who had refused to give evidence. The Commons then proceeded to investigate the circumstances which had procured for the Orphans Bill a suspiciously easy passage

* Albemarle Street now occupies the site of it

through Parliament. An examination of the Books of the Chamberlain soon disclosed that 1,000 guineas had been paid to Trevor, the Speaker, and for receiving this bribe he was expelled from the House. There were very strong suspicions that the East India Company had been employing the same means in order to obtain the new charter which had been granted to them in 1693, and when the Committee came to examine the accounts of the Company, they found some transactions recorded therein which seemed to justify those suspicions. The first was a contract for the supply of saltpetre, made with one Colston (suspected to be an agent of Seymour), the effect of which was to make him a present of about 12,000*l.*; the other was an expenditure of £170,000 for secret service; in regard to which the Governor, Sir Thomas Cooke, refused to give any information. A severe Bill against him was passed through the Commons and came up to the Lords (No. **929**), where it was as strongly opposed by Carmarthen (now Duke of Leeds), as it had been by Seymour, one of the other suspected persons, in the Commons. Cooke now offered to confess provided he was indemnified, and accordingly the Imprisonment Bill having been dropped and an Indemnity Bill passed (No. **930**), he was examined by a Joint Committee, to whom he made a statement in writing as to the disposal of the money.* Numerous witnesses were examined, and the Committee sat for several days; but the disclosure which Cooke made was not considered satisfactory enough to entitle him to an indemnity, and consequently another Bill was passed to imprison him together with Firebrace, Bates, and Craggs, three of the other witnesses who had given evidence before the Committee. The most important fact brought out by the enquiry was that a sum of 5,000 guineas had been given by Firebrace to Bates, who professed to have interest with the Lord President. "There were indeed presumptions," says Burnet, that the Duke had received the money, which, according to Bates had been left with a servant of the Duke's, and which, like another sum of 500 guineas paid to Trevor, the Speaker, was returned to Cooke on the day before that on which he was to make his statement. In consequence of these disclosures, the Commons proceeded

* For the full account of the proceedings, *see* L.J, xv., 532, *et. seq.*

to bring articles of impeachment against the Duke, and although the disappearance of his servant, a material witness, prevented the proceedings from being carried through before the prorogation, yet it also confirmed the general belief in his guilt, and practically put an end to his career as chief minister, (No. **938**).

The Queen had died on Dec. 28th, 1694, and No. **890** is interesting as giving a list of offices to be filled by Peers at the magnificent State funeral which took place on 5th March following. The Commons wearing black cloaks, and the Peers in their robes, preceded the coffin. The Banner of England, Scotland France, and Ireland; the Banner of England; the Banner of France and England; and the Banners of Scotland, Ireland, and Wales were carried by Peers in the Procession. The Lords met in the Council Chamber at Whitehall, were called over by the Herald, and adjourned to the Abbey; where a space as nearly as possible resembling the House had been fitted up for them by Sir Christopher Wren.* After hearing the sermon preached by the new Archbishop of Canterbury (Tenison) the House was formally adjourned to the Council Chamber, whither they went in reverse order, the adjournment being entered in the Journal in English instead of Latin.

C. L. ANSTRUTHER.
H. P. ST. JOHN.

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* The two Houses attended the funeral as a Parliament (*see* L.J., xv. 457; C.J., xi., 302).

ABBREVIATIONS USED IN THE FOLLOWING CALENDAR.

MS. Min.—MS. books containing Minutes of the proceedings in the House, and intituled "Journal."

Com. Book.—MS. books containing Minutes of the Proceedings of Select Committees.

Priv. Book.—MS. books containing Minutes of the Proceedings of the Committee for Privileges.

Joint Com. Book.—MS. books containing Minutes of the proceedings of Joint Committees of Lords and Commons.

THE

MANUSCRIPTS

OF THE

HOUSE OF LORDS.

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741. Nov. 7.—Writ of Summons (D. Schomberg).—Writ of Summons, of date, to Maynard, Duke of Schomberg. [Took his seat this day. L. J., XV. 295.] 1693. —

742. Nov. 7.—Writ of Summons (E. Winchelsea).—Writ of Summons, of date, to Charles, Earl of Winchelsea. [Took his seat this day. L. J., XV. 295.]

743. Nov. 7.—Writ of Summons (L. Lovelace).—Writ of Summons, of date, to John Lovelace de Hurley, Chr. [Took his seat this day. L. J., XV. 295.]

744. Nov. 7.—Zouch *v.* English (Original and Cross Appeals).—Petition and Appeal of James Zouch, Esq. Petitioner in his former Appeal to their Lordships,* from a decree of the Lords Commissioners, set forth that his late father gave Petitioner's sister Dorothy, wife of Thomas English, 1,500*l.* portion at her marriage, which sum, though mentioned to be charged on some lands, was intended to be paid out of his personal estate, amounting to 10,000*l.* Beatrice, his relict and executrix, had all the personal estate, and, having married again, took no care to pay the portion, but, as guardian of Petitioner, received the rents of the estate, and raised large sums by the sale of the timber, for which Petitioner had no satisfaction. Petitioner, on obtaining possession of the estate, not only supplied Dorothy with large sums for her maintenance, but after she was of age lent her moneys, which she promised to repay out of the 1,500*l.* due on her marriage. In 1668 he was entrapped into signing a note promising to pay her a sum not exceeding 3,000*l.* when her uncle, the late Earl of Anglesey, should provide a suitable husband for her. Dorothy, being sensible how Petitioner had been imposed upon, duly released him from the agreement, but her husband brought a Bill in Chancery in his and her names demanding both the 1,500*l.* and the 3,000*l.* Petitioner having brought a Cross-bill for relief against the note, the two causes were heard on 3 Feb. 1682, before Lord Keeper Guilford, who dismissed the claim to the 3,000*l.*, but allowed

* *See* Calendar, 13th Report, App. No. 408 (31 October 1691).

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[In the Committee, to whom the above Petition was referred this day, *Sir Thomas Powys* (for Appellant) opened the case. He says the Commissioners have made a decree inconsistent with the L. Keeper North's decree, without setting aside his Lordship's decree. They have directed the 1,500*l.* to be paid to English. This Appeal does not interfere with the Order your Lordships made. Order of 10 Dec. 1691 read. *Solicitor General* (for Respondent): Mr. English proceeded regularly in Chancery. The L. Guilford's Order is no decree at all; it was only in the nature of an interlocutory Order. The Lords Commissioners have decreed Mrs. English shall have her life [interest] in the 1,500*l.* *Ordered* to report that the Petition is fit to be received. (Pet. Book, 14 Nov., L. J. XV. 298.) The Original and Cross Appeals were heard together on 9 Jan. 1693–4. *Sir Thomas Powys* (for Zouch) said the Appellant was kept out of the estate by his mother. He was drawn into a note under his hand for 3,000*l.*, if she [his sister] married Mr. English, and [there were] very foul practices in this case. That note is now totally out of the case by your Lordships' Order. *Mr. Dobyns* (for Zouch): We prove particular directions that the sister must be provided [for] out of the personal estate. They read several depositions. *Sir William Williams* (for Respondent) and *Mr. Dormer* (for Swynock) are heard. *Mr. Conyers* (for Dorothy English): Upon her Appeal they pretend a hearsay. We have proved that this matter was carried on with the consent of Mr. Zouch. *Mr. Vernon* (for Respondent Swynock): We are a creditor for 700*l.* Mr. English is dead, and we can have no money but under the decree; and the question between us is whether that decree shall be reversed and he lose his debt. Mr. English never received one penny advantage of his wife's portion. *Sir Thomas Powys* and the others heard in reply. *The Lord Keeper* reported the next day, when the decree was in part reversed, with directions. (MS. Min., 9 and 10 Jan.; L. J., XV. 337, 338.)]

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Annexed :—

(*a*) 27 Nov.—Answer of Samuel Swinnock, of London, Merchant, Executor of the last will and testament of Thomas English, Esq., deceased. Appellant's late father, by his will in 1642, charged his lands with Dorothy's portion of 1,500*l.* Appellant, by an agreement signed in 1668, undertook to pay or secure 3,000*l.* as an additional portion on her marriage, with the consent of her uncle, the Earl of Anglesey, who subsequently approved of English as her husband. English and his wife declined to waive their claim to this 3,000*l.*, as proposed by Lord Guilford. The 1,500*l.* was not in issue before the House on appeal. English died on 3 Aug. 1691, leaving Respondent his Executor, and authorising him to repay himself two debts of 550*l.* and 200*l.*, with interest, out of the estate, Dorothy being left a legacy of 1,000*l.* The present Lord Keeper, on 29 May last, revived the decree of 1692 against Appellant, after a full hearing. Prays that this decree may be confirmed, and the Appeal dismissed with costs. *Signed* by Sam. Swynock; *Countersigned*, T. Vernon. *Endorsed* as brought in this day.

(*b*) 1 Dec.—Petition of Appellant for a day for hearing. L. J., XV. 310.

(*c*) 9 Dec.—Petition of Appellant for leave to add his sister Dorothy as a Respondent, and that the hearing may be delayed till she has answered. L. J., XV. 318.

(*d*) 14 Dec.—Answer of Dorothy English, widow. Respondent is aggrieved by the decree of 16 April 1692, inasmuch as the 1,500*l.* ought to have been decreed to her benefit only, and not to that also of her husband, who made no settlement upon her nor allowed her any maintenance, and was a man of little or no estate and a prisoner in the King's Bench; and Respondent was betrayed into a marriage with him. Prays their Lordships to reverse the decree and to give her the 1,500*l.* with interest. *Signed* by Respondent; *Countersigned*, Wi: Williams, Robert Dormer, Nic. Beel. *Endorsed* as brought in this day.

(*e*) 29 Dec. (Cross Appeal).—Petition and Appeal of Dorothy English, widow. Sets forth the proceedings as stated in the Original Appeal. Swinnock has revived the decree in Chancery without making Petitioner a party. Prays that the decree of 16 April 1692 may be reversed, and that Swinnock and Zouch may be ordered to answer. *Signed* by Appellant; *Countersigned*, Wi: Williams and Robert Dormer. [Brought in this day, L. J., XV. 329. *See* Notes to first Paper.]

(*f*) 4 Jan. 1693–4 (Cross Appeal).—Petition of Samuel Swynock, Respondent in the Cross Appeal, for further time to answer, and that the Original and Cross Appeals may be heard together. L. J., XV. 333.

(*g*) 5 Jan. (Cross Appeal).—Answer of James Zouch, Esq. The decree complained of ought to be reversed, as Respondent prays in his Original Appeal. Hopes that, out of the 1,500*l.* claimed by Dorothy, he may have satisfaction for the moneys he advanced to her. *Signed* by Respondent. *Endorsed* as brought in this day.

(*h*) 5 Jan. 1693-4 (Cross Appeal).—Answer of Samuel Swinnock, of London, Merchant, Executor of the last will and testament of Thomas English, Esq. The decree makes quite sufficient provision for the Appellant Mrs. English, considering the circumstances

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of her husband and the troubles he was engaged in by reason of his unfortunate marriage, he never having received a penny of the 1,500*l.* due as his wife's portion, but having been involved in tedious and expensive suits, owing to the Appellant Mrs. English having been induced to withdraw and conceal herself from him, and having, by herself or her brother, James Zouch, set on foot a pretended precontract with one Blunt, to annul her marriage with English. Prays that the decree may be affirmed, and the Cross Appeal dismissed with costs. *Signed*, Sam. Swynock; *Countersigned*, T. Vernon. *Endorsed* as brought in this day.

745. Nov. 7.—Superstitious Trusts and Uses Bill.—Draft, marked in margin for amendment,* of an Act for the vesting of superstitious Trusts and Uses in the Crown.

§ i. For the better and more effectual suppression of all superstitious Trusts and Uses, Be it enacted by the King and Queen's Most Excellent Majesties, &c., That where any manors, lands, tenements or hereditaments, since the *four and twentieth* day of March, *one thousand six hundred and seventy-nine*, have been, or at any time hereafter shall be, given, granted, devised, disposed, limited or appointed by any person or persons, to or for the maintenance or support of any Jesuit or priest of the Church of Rome, or of any abbey, priory, nunnery, Popish Seminary, College or School whatsoever, or of any person or persons to be educated or maintained therein, or for the upholding and maintaining of any superstition now used and practised in the Church of Rome, or since the *said four and twentieth* day of *March, one thousand six hundred and seventy nine*, have been, or at any time hereafter shall be, given, granted, devised, disposed, limited or appointed by any person or persons to any Popish priest, or to any person being an Abbot, prior, or any person or persons professed in any religious Order of the Church of Rome, That all and singular such manors, lands, tenements and hereditaments, rents and profits, so given, granted, devised, limited or appointed, shall [be and are hereby vested, adjudged, and deemed to be in the actual possession of their Majesties, the King and Queen, their heirs and successors] *descend to and be enjoyed by such person or persons, being Protestants, as should have inherited and enjoyed the same, in case the said person so granting, and every other person, being a Popish Recusant, or professing the Popish Religion, that might be heir to such grantor, were naturally dead.*

§ ii. And be it further enacted by the authority aforesaid, That where any manors, lands, tenements or hereditaments, or rents or profits of or out of any manors, lands, tenements, or hereditaments since the day of ,† have been or at any time hereafter shall be given, granted, devised, limited or appointed by any Popish Recusant, or any person or persons professing the Popish religion, by any deed, will or conveyance in writing, wherein a trust is mentioned, but the particulars of the said trust not therein expressed, That all and singular such manors, lands, tenements and hereditaments, rents and profits, so given, granted, devised, limited or appointed, shall [be and are hereby vested, adjudged and deemed to be in the actual possession of their Majesties the King and Queen, their heirs and successors,] *descend to and be enjoyed by such person or persons, being Protestants, as should*

* The amendments are supplied from the MS. Min. of 27 and 29 November, the omissions being shown by square brackets, and the additions by italics.

† The draft contains a lineal reference in the margin, as for an amendment, but the amendment itself is not mentioned in MS. Min.

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*have inherited and enjoyed the same, in case the said person so granting, and every other person, being a Popish Recusant, or professing the Popish religion, that might be heir to such grantor, were naturally dead,** unless it shall appear by some other deed or writing, made bonâ fide, that such deed, will or conveyance, in which such general trust only is mentioned, was thereby intended, and is by such other deed or writing declared to be to and for some lawful trust, intent or purpose, and not to or for any of the trusts, intents and purposes hereinbefore mentioned.

[Read 1ª this day (L. J., XV. 296). In C. W. H. on 27 November, Bp of Salisbury in the Chair, after hearing L. C. Justice Treby as to how these lands were vested formerly, and after amending Clause i., as marked above, it was referred to the Judges to draw a Clause pursuant to the debate. On the 29th, *the Judges* gave an account of what they had done, and the Committee amended Clause ii. by adding the Paper + in Annex (*a*) below, and then ordered to report further progress. (MS. Min., 27 and 29 November.) The House, on report, ordered the C. W. H. to be resumed on 2 December (L. J., XV. 309), but no further proceedings appear until 15 December, when a Petition of Adolph Curtius† was referred to the Committee. (*Ib.* 322). Nothing further is recorded, and the Bill dropped.]

Annexed :—

(*a*) 29 November.—Draft of amendment marked +. [Agreed in C. W. H. this day, to be embodied in Clause ii. (MS. Min.) Its contents are given in the text of the Bill above.]

(*b*) 15 December.—Petition of Adolph Curtius, Esq., son of Sir William Curtius, Bart. Petitioner, being well entitled to 14,000*l.* due from the Crown to his father, and knowing that it is inconsistent with their Majesties' present occasions to part with ready money, and labouring under extreme necessities for want of subsistence, petitioned their Majesties for the lands, &c., belonging to Newenham Abbey, in the town and county of Bedford, worth 200*l.* a year, and settled to Popish or superstitious uses. The annexed Report of their Majesties' then Attorney General and now Lord Keeper shows that Petitioner's debt is real and the lands grantable as desired. The Bill will deprive Petitioner of their Majesties' intended grant. Prays that a Proviso or Clause may be inserted to the purport of the draft annexed. L. J., XV. 322.

(*b*)[1]. 15 December.—Report of Attorney General referred to in preceding and appended thereto, viz.:—

May it please your Lordships,

In obedience to your Lordships' Order of Reference of the 23rd day of August last, upon the Petition of Adolphus Curtius, Esq., I have endeavoured to inform myself touching the matter of fact therein alleged, and as to that part of the Petition which mentions the services of Petitioner's father, I find that Sir William Curtius, the Petitioner's father, was employed for many years by King Charles I. and King Charles II., as Resident with the Princes of Germany, during which time he did several considerable services to the said Kings and others of the Royal Family, and to many of the English nation. It does appear by an account allowed under the

* These words in italics appear as Paper + in Annex (*a*) below.

† *See* Annexes (*b*), (*b*)[1], and (*b*)[2] below.

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No. 745. (*b*)[1] .. Sign Manual and Signet of King Charles II., bearing date the 1st of November, 1654, that there was due to the Petitioner's father for his salary and other allowances, 14,255*l.*, which sum remained unsatisfied at the death of Sir William Curtius in 1678.

King Charles II., by Letters of Privy Seal bearing date the 5th of August, 1664, did grant the sum of 2,000*l.* to the said Sir William Curtius, without account, of which 500*l.* only was received, as appears by a Certificate signed by Sir Robert Howard.

Sir William Curtius himself, and his family since his death, have been at great charge in soliciting many years together for some satisfaction of their said demands, and the Petitioner does entitle himself to the whole debt by an assignment from Sir Charles Curtius, his elder brother, which he has produced to me, and which bears date the 12th of December, 1688.

As to the other part of the Petition, whereby the Petitioner prays a grant from their Majesties of the Abbey of Newenham, in the parish of Godlington, near the town of Bedford, and the lands thereunto belonging, the case (as far as it appears to me) is as follows. I find by virtue of a Commission issuing under the Exchequer Seal of the 17th day of July in the 32nd year of King Charles II., for enquiring into the estate of Thomas White *alias* Whitebread and others, attainted and executed for High Treason, it was found by an Inquisition taken in the county of Middlesex the 14th day of October in the same year (amongst other things) that Sir Roger Martin was seized in fee of the late dissolved monastery of Newenham, of divers lands thereto belonging, and divers other lands in the Inquisition mentioned (which, as I suppose, are the lands intended in the Petition), in trust for the said Thomas White *alias* Whitebread, his heirs and assigns.

And by virtue of another Commission under the Exchequer Seal, bearing date the 20th day of January, in the 33rd year of the reign of the late King Charles II., for enquiring into the estates of Thomas White *alias* Whitebread and others, who had been attainted and executed for high treason, it was found by an Inquisition taken in the county of Middlesex, bearing date the 17th day of February, in the 34th year of the reign of the said late King, that John Petre, late of Ingerston Hall, in the county of Essex, was seized in fee of the said Abbey of Newenham, with divers lands thereto belonging, and divers other lands in the Inquisition mentioned (which I take to be the lands mentioned in the Petition), in trust for the same Thomas White *alias* Whitebread, his heirs and assigns. And the said Inquisition does further find that the said Abbey and lands were formerly purchased in the names of Sir William Ayloff, Baronet, and Humfrey Weld, Esq., in trust for the said Whitebread, his heirs and assigns, and were afterwards conveyed to the said John Petre upon the same trusts.

I find further that on the 28th day of February, in the 2nd year of their now Majesties' reign, a Commission issued out under the Great Seal for enquiring what lands in the county of Bedford were conveyed and settled to superstitious and unlawful uses, and that by an Inquisition thereupon taken in the same

county the 7th day of March in the same year, it was found that Thomas, Lord Petre, was seized in fee of the said Abbey of Newenham and other lands in the said former Inquisitions mentioned, which by the said last Inquisition are found to be of the value of 200*l.* per annum, in trust for the nuns residing and inhabiting in the English nunnery in Normandy. 1693. — No. 745. (*b*)[1]

This last Inquisition does wholly differ from the two former. In case the fact be as it is found by the two Inquisitions under the Exchequer Seal, the Crown became entitled to the inheritance by the attainder of Whitebread, without any office found, and may grant the same to any subject. But if the fact be as it is found by the last Inquisition, it has been made a doubt whether, when lands are settled to superstitious uses, and that does appear upon record, their Majesties become entitled thereto as an inheritance in right of their Crown, so as that the same may be granted away to any subject, or whether by the law a trust only is lodged in the Crown to make a right direction of the charity by disposing thereof to some proper charitable or pious uses consistent with the laws. And this question (as far as I know) is not yet settled. So that if upon consideration of the services of the Petitioner's father, and the sum demanded of the Crown upon account, and the great charge and loss of time which has been occasioned by soliciting for a satisfaction, your Lordships shall think fit to advise his Majesty to gratify the Petitioner in his request, I do not see what inconvenience will arise, because then it will be the interest of the Petitioner to defend his own title, and thereby support the right of the Crown to dispose absolutely of the inheritance in such cases, if the aforesaid question should arise touching the validity of the grant. [Appended to preceding.]

(*b*)[2]. 15 December.—Proviso referred to in above Petition, and appended thereto, viz.: Provided always and be it further enacted, That this Act or anything therein contained shall not extend or be construed to extend to settle any messuages, lands, tenements, or hereditaments belonging to the Abbey of Newenham, in the parish of Godlington, in the town and county of Bedford, to the uses aforesaid, which were found (among other things) by several Inquisitions in the reign of King Charles the Second to be conveyed to or settled upon one Thomas White *alias* Whitebread, his heirs and assigns, to and for the maintenance of him or any other Popish priest or Jesuit, or to any other superstitious use or uses, whereby their Majesties are in any wise entitled to the lands and premises belonging to the said Abbey of Newenham by the attainder of the said White *alias* Whitebread, or otherwise; But that the said messuages, lands, and tenements belonging to Newenham Abbey as aforesaid, and all the right, title, estate, interest, claim and demand their Majesties, their heirs and successors, have or claim of, in and to the same, shall be and is hereby fully saved and reserved to their Majesties, their heirs and successors, so that it shall and may be lawful to and for their Majesties, their heirs and successors, to grant the same to Adolph Curtius, his heirs and assigns, for and towards the payment or satisfaction of the debt of 14,000*l.* due and owing from the Crown to Sir William Curtius, Bart., father of the said Adolph Curtius,

1693. anything in this Act contained to the contrary thereof in any wise notwithstanding. [Appended to above Petition.]

No. 745. (*b*)[2] 746. Nov. 10.—Fox *v.* Harcourt (In Error).—Copy of Writ of Error and Transcript of Record, with tenor of Judgment (L. J., XV. 321 *In extenso*) appended thereto. John, E. Clare, being *Custos Rotulorum* for Middlesex, appointed Simon Harcourt (a Clerk of Sir Samuel Astrey, "Coron. et Attorn. Regis") to be Clerk of the Peace for that county. E. Clare was afterwards removed, and William, E. Bedford, being appointed in his place, nominated John Fox, of St. Paul's, Covent Garden (a Clerk of Sir Rob[t]. Henley, "Capital. Cleric. ad Placita"), as Clerk of the Peace instead. The King's Bench held that Fox was not properly nominated, because, Harcourt holding his office *quamdiu se bene gesserit*, the office did not determine by the removal of the *Custos Rotulorum*, as it would have done before the Statute of 1 W. & M. c. 21. The Writ of Error is from this Judgment. [Brought in this day. (L. J., XV. 297.) The cause was heard on 12 Dec. *Mr. Wallop* (for Plaintiff) opens the case, and recites the Acts relating to this business, and the proceedings thereon. Recites the case upon the special verdict. The L. Oxford's case. *Mr. Dodd* (for Plaintiff): The case is this, whether he is continued by the Statute to be Clerk of the Peace, though E. Clare was removed. The Clerk of the Peace is neither an officer nor office at common law. One was appointed for a *Custos*. 37 Hen. VIII. is the first law concerning the *Custos Rs.* and Clerk of the Peace. It is plain the Clerk was to have no longer continuance than the *Custos*. He must cease to be Clerk by this Statute, when the *Custos*, E. Clare, ceased. There is, I humbly conceive, no alteration made by the Statute of this King to the former Statutes. *Sir Thomas Powys* (for Defendant): The question is whether Mr. Harcourt gained an estate for his life under E. Clare, or whether he ceased when E. Clare ceased. What estate the Clerk of the Peace had in his office before the Statute 37 Hen. VIII. I hope will be clear. *Sir Bartholomew Shore* (for Defendant): States the case. We have a judgment for us by all the Judges. It was a special verdict upon notes on both sides. We hope you will affirm the judgment. The purview is that which you are to take notice of in this Act. The words carry a freehold, if the subject-matter be kept. *Mr. Wallop* heard to reply.—Next day the *Lord Keeper* reported the case. Part of the Act of 1 W. & M. read. *Moved* that the Judges be heard upon the words of the Act, and whether these words vest a person *quamdiu se bene gesserit*, or whether there is any ambiguity in the words? *Lechmere, B.*: It is determinable no otherwise than as the words are, until he misbehaves himself. *Rokeby, J.*: It is not determinable; only by his death or misdemeanour. *Moved* to ask the Judges how it stood before this Act, and whether the words of this Act repeal the former? Part of the Statute 37 Hen. VIII. is read. *Lechmere, B.*: I take by this Statute the Clerk was removable two ways, either by the death of the *Custos*, or by misdemeanour. But this last Statute says he shall hold it and enjoy it so long as he behaves himself well, and this only, and it is a repeal of that Statute *quoad* [*hoc*]. *Rokeby, J.*: It is not a formal repeal, but it is a sort of repeal, being an interest. *Proposed:* If a Clerk be removable only by misdemeanour, then, what if the King die, is it not determinable? After Debate, *Question* put: Whether this Judgment shall be reversed? Resolved in the *Negative*. *Ordered*, That the Judgment be affirmed, and the Record transmitted. *Dissentients:* Bolton, Devonshire, Mulgrave, Newport, J. Bridgewater, Macclesfield, Oxford.

(MS Min. Dec. 12, 13; L. J., XV. 320–1.) The case is reported in Shower P.C. 158; 4 Mod. 167; Comb. 209; 12 Mod. 42; Holt 189, and very much at large in 1 Shower 426, 506, 516.]

747. Nov. 14.—Writ of Summons (D. Richmond).—Writ of Summons to Charles, Duke of Richmond. *Dated* 7 Nov. [Introduced this day, L. J., XV. 298.]

748. Nov. 14.—Simmons *v.* Grant.—Petition and Appeal of Elizabeth Simmons. Appellant, having a Bill brought against her by Respondents in the Court of Exchequer for a legacy of 500*l.* devised to the Respondent Bridget by the late Sir Ralph Bovey, answered that she had not sufficient of the testator's estate to satisfy the legacies. The Court, in 1692, ordered an account to be taken by the Deputy Remembrancer, before whom Appellant insisted that certain lands, called Crawdon Lands, of the value of 4,000*l.*, and sold to Mr. Cope, together with Caxton Lands, for 13,832*l.* 5*s.*, were not subject to pay legacies. The Deputy, however, after refusing to allow Appellant a Commission to examine witnesses, made a report stating that he had taken the account according to her own Answer. He included therein the above-named lands, together with Bowell's Fields, and charged Appellant with 15,831*l.* 6*s.*, discharging her of 14,808*l.* 5*s.* 7*d.*, and leaving 1,023*l.* 0*s.* 5*d.*, the legacy and interest being computed to amount to 605*l.* Appellant's Exceptions were overruled, and she was decreed to pay the 605*l.*; and this Decree was affirmed on a rehearing. Appeals against this Decree, the account never having been taken, as reported, according to her Answer, and prays that proceedings may be stayed. *Countersigned* Edw: Ward, T. Dyose. [The Cause was heard on 15 Dec. *Sir Thomas Powys* (for Appellant) opens the case. *Mr. Dyas* (for Appellant); Caxton Lands were settled to the use of his will. Craydon Lands were not settled but by a Codicil to his Will. He allows them to be sold. We have the Will. *Sir William Williams* (for Respondent): He made this woman his executrix, and gives her power to sell his estate for payment of debts. The Will was made in 1678. *Mr. Dod* on the same side. *Sir Thomas Powys* heard in reply. They read the Answer. The Cause was heard 18 July. The Deputy's Report produced and read. *The L. Keeper* reported. Decree affirmed with 10*l.* costs. (MS. Min.; L. J., XV. 322).]

Annexed:—

(*a*) 24 Nov.—Answer of Thomas Grant and Bridget, his wife. Sir Ralph Bovey, being seized in fee of the manor of Caxton and other manors in Cambridgeshire, worth 3,000*l.* a year, settled them in 1678 on the Right Hon. the Lord Sherrard, the Hon. Col. John Russell, Sir Robert Cotton, Knt., Phillip Cotton, Esq., John Hagger, William Denton and Walter Carew, Gent., in trust to pay his debts and perform his will, and on several trusts, uses and limitations, with power of revocation. Not long afterwards he made his will, reciting the deeds of trust, and declared that Hagger, Denton and Carew should be no longer trustees, and revoked the uses and estates limited and declared to Ralph and William Innes, or any of his sons or heirs male born before or after his decease, and devised other lands to the remaining trustees, and left a messuage, as well as his jewels, plate and other special legacies, to Appellant, which were of the value of 5,000*l.* To the Respondent Bridget, his goddaughter, he left 500*l.* He devised the manor of Caxton for payment of

1693. — No. 748. his debts and legacies, and, by a codicil, he ordered his Executrix to sell all his estate in Crawdon in case his debts should not be satisfied before. Appellant, his Executrix, proved the will in 1679. Respondents, who married in 1688, demanded the legacy, Appellant having raised above 16,000*l.* out of the sale of Caxton and Crawdon Lands and Bowell's Fields, and out of the testator's personal estate. The Deputy Remembrancer certified that there remained in Appellant's hands 1,023*l.* Her pretences of moving for a Commission were groundless and only for delay. Pray that the Appeal may be dismissed with costs. *Countersigned* Sam: Dodd, Franc: Browne. *Endorsed* as brought in this day.

(*b*) 7 Dec.—Petition of Respondents for a day for hearing, and that service of the order for hearing on the Appellant's Agent or Solicitor may be deemed good service, as Respondents cannot find Appellant herself. *Signed* Thomas Grant. L. J., XV. 316.

749. Nov. 14.—Privilege of King's Servant (P. Mauduit).—Petition of Peers Mauduit. Petitioner, who is Windsor Herald of Arms, under Letters Patent of 16 Feb. 1690-1, and by a Warrant to D. Norfolk, was arrested, about a month ago, at the suit of Mary Deeble and others, and prosecuted by her Attorney, Wm. Fothergill. Prays to be discharged. *Signed* by Petitioner; *Countersigned* by D. Norfolk, who certifies, on 13 Nov. 1693, that the contents of the Petition are true. [Read this day and referred to the Committee for Privileges (L. J., XV. 299). In Committee on 20 Nov., E. Macclesfield in the Chair, *Counsel* for Petitioner, being called in, prays privilege for Mauduit as a menial servant to the King. Mauduit is not only a Patent servant, but has wages and livery from the King, and the Heralds formerly had a table and lodging in the King's house. The Heralds are not taxed in their parish, but as belonging to Whitehall. They receive fees of honour at Whitehall, and are bound to attend the King when the Earl Marshal or Lord Chamberlain gives order. Fitzgerald, Reddish, Stepkins, Waller and Killigrew, the King's servants, have been discharged by your Lordships from the restraints they have been under in time of Privilege. Mauduit was arrested 21 Oct. 1693. *Ordered* to report that Mauduit ought to be allowed Privilege (Priv. Book). Report made 21st Nov., and Mauduit discharged (L. J., XV. 303).]

750. Nov. 18. E. Londonderry *v.* Ford.—Petition and Appeal of the Right Hon. Robert, Earl of Londonderry, in the Kingdom of Ireland, Edward Holwell, of the Middle Temple, London, Esq., Charles Ford, of the City of Exeter, Gent., and John Egerton, of Limston, in the County of Devon, Clerk, Executors of the last Will and Testament of Sir Henry Ford, late of Nuttwell, in the said County of Devon, Knt., deceased. The late Henry Row Ford, Sir Henry's son and heir, having purchased of Sir Thos. Row, Knt., late of Swarford, co. Oxon, and one Abraham Johnson, his trustee, the Barton of Baytor, co. Devon, worth about 100*l.* a year, mortgaged it in 14 Car. II. to Sir Thos. Row for 1,493*l.* 14*s.*, part of the purchase money, which he and his father covenanted to pay. The father paid about 622*l.* on his son's account, but, the son neglecting to pay the rest, Sir Thomas entered in 1673, but died in the lifetime of the mortgagors. The son, having married a daughter of — Dormer, Esq., without any portion, offended his father, who thenceforth designed to advance his son Charles, one of the

1693. — No. 750.

Appellants. Being 1,600*l.* in debt and wishing to provide for his four daughters, he devised by will all his estate, except the Barton, to Appellants for payment of his debts and legacies, and made Charles Ford residuary legatee; and, supposing himself to have a power to dispose of the Barton, he devised it to Henry Ford, an infant, the only child of Henry Row Ford. Anamara Dormer, widow, the infant's grandmother, taking colour from the devise, brought a Bill in Chancery in 1686 as his guardian and next friend, suggesting that Sir Henry Ford intended the debt on the Barton to be paid by Appellants out of the estate. The Court, by Orders of 14 May 1691, and 13 February 1692, decreed Appellants to pay to Sir Thomas Row 525*l.*, and to Anamara Dormer the profits of the Barton since Sir Henry Ford's death, making a total of 1,241*l.* Appeal from these Orders. The moneys due to Sir Thomas Row were not the proper debt of Sir Henry Ford, nor did he intend to discharge the mortgage on the Barton. Appellants in any case could not be charged further than assets were confessed, nor for profits received by Sir Thomas before the suit, nor otherwise than out of Sir Henry Ford's estate. The Orders not only leave the Appellant, Charles Ford, destitute, but there will not be enough to pay Sir Henry's proper debts and legacies. Pray that Henry Ford, by his guardian Anamara Dormer, may be ordered to answer, and that proceedings may be stayed. *Signed* London-Derry, E. Holwell, Charles Ford, John Egerton; *Countersigned* Hen: Hatsell, Tho: Powys. L. J., XV. 301. [The Cause was heard on 6 December. *The Solicitor General* (for Appellants): There is a bond of the son, Henry Row Ford, to pay the money. We complain of the decree as to the interest for the profits. *Sir Thomas Powys* (for Appellants): We insist that the Commissioners ought not to have decreed us to pay anything at all. It was not his own, but his son's debt. In this case there will not be estate enough to pay Sir Henry Ford's debts. The Deed of Mortgage read. *Sir William Whitlock* (for the Infant Respondent): They pretend the son mortgaged it, and he was but just of age, and that his father had nothing to do with it. *Mr. Finch* (for Respondent): He devised the estate. He was owner of it also. When we are prosecuting the Appellants on this Decree, they come into Court and get an Order. We expected an account. What was the justice of this case upon Sir Henry Ford's death? We read the Will. By their own Answer they own it to be his estate. *Counsel* for Appellants heard in reply. The L. Keeper reported, and the Decree was affirmed. (MS. Min.; L. J., XV. 315).]

Annexed:—

(*a*) 28 Nov. 1693.—Answer of Henry Ford, an Infant, by Anamara Dormer, widow, his next friend. Sir Henry Ford, made no provision for his son, Respondent's father, who died in his lifetime, but having mortgaged Bagtor Farm, worth about 60*l.* a year, to Sir Thos. Rowe, he devised it to Respondent, his grandson, and left 4,000*l.* to his four daughters, and all his other lands to Appellants to pay his debts and legacies, amounting to 10,000*l.* at least. Sir Thomas Rowe having taken possession of Bagtor Farm, in consequence of Sir Henry Ford's not paying the mortgage money, Respondent, being advised that the debt due to Sir Thomas ought to be paid out of the trust estate, brought a Bill against the mortgagee, Sir Thomas, to discover what was due upon his security, and to compel Appellants to pay it out of the trust estate. The Court directed an account, but Appellants, to avoid discovering the

1693. — No. 750. great surplusage of the testator's estate, admitted assets sufficient to pay Sir Thomas Rowe. Prays that the Appeal may be dismissed with exemplary costs. *Signed* H. Ford; *Countersigned* Wm. Whitelocke. *Endorsed* as brought in this day.

751. Nov. 20.—Navy (Accounts Commissioners).—Report from the Commissioners for stating the Public Accounts, entitled, A State of the yearly supplies of Money intended for the Navy for the years hereafter mentioned, compared with what was issued for that service, and what was deficient, as also of the debt owing to the Navy on 5 November 1688.

1689 :—

	£. s. d.	Money intended. £. s. d.	Money paid for all the Services of the Navy. £. s. d.	What was deficient. £. s. d.
The Ordinary charge of the Navy, being part of the charge of the Civil List -	130,000 0 0			
Summer and Winter Guard in time of peace - -	366,080 0 0	1,196,080 0 0	490,332 16 3	705,747 3 9
What the Commons gave for that year - - -	700,000 0 0			
1690 :—				
The Ordinary charge of the Navy - - - - -	100,000 0 0			
Summer and Winter Guard, as in the preceding year -	366,080 0 0	1,597,376 0 0	959,153 16 8½	638,222 3 3½
The Commons' Aid - -	1,131,296 0 0			
1691 :—				
The Commons gave for the Ordinary and all other charges - - - -	1,791,695 0 0			
Due this year in part of 570,000*l.* from ⅓ of the Double Nine-pences -	14,800 0 0	1,806,495 0 0	1,660,287 10 0	146,207 10 0
1692 :—				
The Ordinary charge of the Navy - - - - -	100,000 0 0			
The Commons gave - -	1,575,890 0 0			
Due this year in part of 570,000*l.* from ⅓ of the Double Nine-pences - -	127,135 14 0	1,803,025 14 0	1,495,358 7 8½	307,667 6 3½
		6,402,976 14 0	4,605,132 10 8	1,797,844 3 4
Owing for several services of the Navy 5 Nov., 1688 - - - - - - - -		196,840 17 11½	- - -	196,840 17 11½
Total - - - - £.		6,599,817 11 11½	4,605,132 10 8	1,994,685 1 3½
The proportion on these Estimates to the Office of Ordnance for sea service, except the year 1690, wherein they are not included - - - - - - - - - -			259,684 15 0	
Of which, paid by the Treasurer of the Navy to the Treasurer of the Ordnance, out of the money appropriated for the Navy			80,871 17 0	
The remainder due to the Office of the Ordnance, included in the Exchequer payments to that Office, must therefore be deducted here, being - - -				178,812 18 0
The remainder of what was deficient of the supplies to the Navy for these years is - - - - - - - - - - - - - - -				*1,815,872 2 3½
Which if they had received, and if they had been supplied (as they ought) with money to have paid off the extraordinary payments made by the Treasurer on the account of Transports, the Descent, Marine Quarters, and money drawn out of his hands by Privy Seal, there had been sufficient not only to have defrayed all the services of these years, but an overplus of a great sum which might have been applied for the building new ships.				

* This total is wrongly copied in next paper as 1,790,872*l.* 3*s.* 3½*d.*

1693.

No. 751.

	What was deficient.
Memorandum :—	£. s. d.
The Commons in the Session of Parliament, which began on 4 Nov., 1692, granted for the charge of the Navy for the year 1693	1,926,516 10 0
Besides the ordinary expense of the Navy of that year, which was to be paid out of the charge of the Government, being, as in the Estimate, delivered to the House of Commons	100,000 0 0
To which is to be added the produce of one-third of the Double Nine-pences of Excise, granted for building the said 27 ships between 1 Jan., 1692, and 10 Nov., 1693	64,900 0 0
Which makes the charge of the Navy to that time, including the ordinary, to be	2,091,416 10 0
Whereof,—	
Paid to the Treasurer of the Navy out of the Exchequer, as appears by the certificates :— £. s. d.	
To 29 Sept., 1693 — 1,675,393 11 3½	
From that time to 10 Nov., 1693 — 134,810 17 7½	1,810,204 8 11
So that there is unpaid to the use of the Navy on the said 10 Nov., 1693, of what was intended for it	281,212 1 1
Note :—	
The proportion to the Office of the Ordnance out of the aid granted by the Commons for the year's service at 5s. comes to	107,282 10 0
Whereby the remainder due to the Service of the Navy on the said 10 Nov. 1693, over and above the said proportion to the Ordnance, is	173,929 11 1

1689 :—

On the 5th April 1689 the House of Commons, taking into consideration the charge of the Navy Royal for that year, did first Resolve, That 48 men-of-war, fireships, yachts and ketches, with 7,040 men, are necessary for a summer and winter guard at sea in time of peace; that for the charge of the said ships, including the charge of the Ordnance, there be allowed 4*l.* a man a month, which, for one year at 13 months by 28 days per month, comes to 366,080*l.*; which sum being taken to be provided at the charge of the Government, together with the charge of the ordinary, being 130,000*l.* On the 25th of April in that year, the Commons Resolved that a supply be given towards the occasions and service of the Navy, not exceeding the sum of 700,000*l.*, which, with the sum and charge before mentioned, made the provision intended for that year's service to be - - £.1,196,080.

1690 :—

Upon consideration of supplies for the next year's service, on the 2nd of November 1689, it was by the Commons Resolved, That for the reducing of Ireland and joining, this ensuing year, with the Allies abroad in a vigorous prosecution of the war against France, both by sea and land, a Supply be given by their Majesties not exceeding the sum of 2 000,000*l.* to be added to the Public Revenue, and on the 1st of April 1690, for a further Supply, it was Resolved that a sum not exceeding 1,200,000*l.* be the Supply to be given to their Majesties for the public occasions between this and Michaelmas, in prosecuting the war against France and reducing of Ireland with speed and vigour. But it appears not in the Journals of the Commons that there was any proportion thereof by the House distinguished for the service of the Navy, but upon view of the Estimates of the charge thereof for that year, in the Registry of the Navy Office, the same was esteemed to be 1,612,976*l.*, out of which, deducting the charge of hire, freight, victualling and wages for tenders and hospital ships, being 15,600*l.*, the charge is reduced to - - - - - - - - - - - - - - - £. 1,597,376.

1691 :—

For the Supply of the year 1691 on the 10th of October 1690 it was by the Commons Resolved, That the estimate of the charge of the Navy, to be set out for the year 1691, including the Ordnance, and for the building the new ships therein mentioned and a dock at Plymouth, as the same is delivered to the House by the Commissioners of the Admiralty, is reasonable; and that a sum not exceeding 1,791,695*l.* be raised for that purpose, as part of the Supply to be given to their Majesties, and that the same be appropriated to the said uses; to which was added by payments out of the Grant of the Double Nine-pences for building of ships - - - - - - - - £ 14,800.

1692 :—

The Supply granted to the Navy for the year 1692 was expressed in the Vote of the Commons on the 18th of November 1691, *viz.*; Resolved,—That a sum not exceeding the sum of 1,575,890*l.* for the charge of the Navy, to be set out for the year 1692 (including the Ordnance and charge of building one new dry dock and two wet docks at Portsmouth) be granted to their Majesties as part of the Supply for carrying on a vigorous war against France, which, with the charge of the ordinary for that year, being 100,000*l.*, by the Commons agreed to be borne out of the charge of the

1693: — No. 751.

Government, and the sum paid out of the Two Nine-pences, granted for the building ships, in all - - - - - - - - - - - - - - - - - - £.1,803,025. 14s. 0d.

Note.—The payments set down for the year 1692 contain all issued from the Exchequer between Michaelmas 1691 and 31 December 1692.

Note.—That, though the Commons, in their Vote of 1,791,695*l.* for a Supply of the Navy or the year 1691 did resolve that the same should be all appropriated, there was but 1,000,000*l.* thereof appropriated.

(*Signed*) Sam : Barnardiston.
Thos : Clarges.
Paul Foley.
Benjn. Hewland.
Math : Andrewes.
P. Colleton.
Ro : Harley.

Endorsed as delivered at the Bar this day by the Secretary of the Commissioners of Accounts, pursuant to Order of 17th inst. [The House, on motion, on the 17th, that the Accounts Commissioners send in the same report they had given to the Commons of such moneys as were given towards defraying the charge of the Fleet (M.S. Min. of date) ordered them to deliver in the above Return (L. J., XV. 300). On receipt thereof this day, a copy was ordered to be sent to the Commissioners of the Treasury for their observations (*Ib.* 303). These Observations* were brought in on the 24th, and a copy was ordered to be sent to the Accounts Commissioners, who were to send in speedily anything they had to offer in reply (*Ib.* 306). Their Reply† was delivered in on 5 Dec. (MS. Min.). Nothing further appears to have been done in this matter.]

Annexed :—

(*a*) to (*a*)³. 24 Nov.—Three papers brought in this day by L. Godolphin from the Treasury and read (L. J., XV. 306). They are as follows :—

(*a*) 24 Nov.—Observations made by the Lords Commissioners of the Treasury. These observations, which are written opposite to a copy of the preceding statement, paragraph by paragraph, are as follows :—

"Their Lordships take notice in general, that the State (transcribed on the other side) is not built only upon such appropriations as since the 5th of November 1688 have been made by several Acts of Parliament, all which have been exactly complied with, neither is the same composed of the moneys so appropriated jointly with such further supplies, as upon Estimates agreed to in the House of Commons, since the time aforesaid, have been voted for the Navy or for Marine Services, in either of which cases the actual payments that have been made to the Navy have exceeded the designations thereunto, it being most evident from the Accounts‡ that since the 5th of November 1688 until the 10th of November 1693, the Navy, Victualling and Sea Service in the office of the Ordnance have in the whole been furnished with more money than could be demanded from the Appropriations made in Parliament, which are collected in the Paper (No. 1),§ or from the Votes or Resolutions that have passed in the House of Commons for supplying the Navy, which (Appropriations included) are set forth in the Paper (No. 2).‖ But under the title of 'Moneys intended' are plainly introduced

* Annexes (*a*), (*a*)¹, (*a*)³. † Annex (*b*).

‡ Note in Margin : The payments for Marine Services to Michaelmas 1693 amounted to 6,858,313*l.* 15*s.* 11½*d.*, as by the Abstract annexed, and from that time to 10 Nov. 1693 to 138,810*l.* 17*s.* 7½*d.* more.

§ Annex (*a*)¹ hereto. ‖ Annex (*a*)² hereto.

very large sums computed in the State to infer the supposed deficiencies therein mentioned, which sums were never enacted or voted, and could not possibly be spared from the Aids which were given generally for carrying on the war, especially in the first years of the said time, when the important and chargeable work of reducing Ireland made all the payments which were made to the Forces to be absolutely necessary thereunto; the expense of that service being so great and of so pressing a nature, that it required, from time to time, great supplies of ready money, notwithstanding all which, it is well known that at the end of that war a very great debt was left in arrear to the army that served there, sufficient to prove that the payments made to those Forces, in the said time, were not needless." 1693. — No. 751 (*a*).

[1689]—

It may be true that on the 5th of April 1689 the House resolved on a summer and winter Guard at sea in time of peace, the charge whereof would amount to 366,080*l.* per annum; and that the Ordinary of the Navy was computed at 130,000*l.* per annum; and that on the 25th of April in the said year there was voted a supply of 700,000*l.* for the Navy; and the Commissioners of their Majesties' Treasury are of opinion that, if the peace then in being had subsisted, the said 366,080*l.* per annum so voted for a summer and winter Guard in time of peace, and taken (as is said in the State) to be provided at the charge of the Government, together with the ordinary charge of the Navy (which in truth does not amount to so much as 130,000*l.* per annum),* might have been well enough supplied out of the public revenues, which had then amounted to above 2,000,000*l.* by the year, the Hearth money being included; but the war ensued, which was declared on the 7th of May following in the said year 1689, and then, the charge of the Civil Government having been ascertained at 600,000*l.* per annum, all the rest of the moneys that could be raised by the revenues, or Aids, or by credit thereupon for the future, were (as the Commissioners of their Majesties' Treasury conceive) designed to be applied for carrying on the said war in the several branches of its expense, except the moneys appropriated to the States General, Charles II.'s servants, paying of interest, &c., and the same hath been applied accordingly, as may appear in the brief abstract of the Accounts hereunto annexed. That it cannot be conceived how the said 366,080*l.*, which, before the breaking out of the said war, had been designed for a summer and winter Guard in time of peace, and the Ordinary Charge of the Navy (whatsoever it were), or either of them,† could by the Government, or the then Commissioners of their Majesties' Treasury, be defrayed out of the said 600,000*l.* per annum, which was allotted for the Civil Government, or how the said two sums can properly be added to the 700,000*l.*‡ (voted on 25th April 1689) to make up the complicated sum of 1,196,080*l.*, which in the said State is supposed to be the sum intended for the Navy in the year 1689.

That the said State mentions payments to be made in each year, without ascertaining when those years begin or end; and the

* Note in Margin: The Ordinary in time of War is about 80,000*l.* per annum.

† Note in Margin: These two sums amount to 496,080*l.* per annum, by the application whereof to the Navy, out of the allowance for the Civil Government, and after payment of the Appropriations made by Acts of Parliament for the Princess and others, there would have been left little or nothing for its subsistence.

‡ Note in Margin: This 700,000*l.* is in the Paper No. 2, (Annex (*a*)[2] hereto).

1693.

No. 751 (*a*).

sum of 490,332*l.* 16*s.* 3*d.* contained in the said State, as the money paid for all the services of the Navy Anno 1689, appears to be the very sum which was paid to the successive Treasurers, the Lord Falkland and Edward Russell, Esq., from the 5th of November 1688 until Michaelmas 1689; whereas several further payments were made in the ensuing quarter of that year, and part of the moneys given for the year 1689 could not be received or applied till after the end thereof, and there ought to have been added to the said 490,332*l.* 16*s.* 3*d.* the moneys which, within the said year, were further issued out of the Exchequer to the Treasurer of the Ordnance for sea service.

[1690]—

Here the 100,000*l.* for the Ordinary and the 366,080*l.* which had been, before the war, designed for a summer and winter guard in times of peace, are again introduced to make up 1,597,376*l.* said to be intended for the year 1690.

The inference of which intention seems to have no good foundation, since the House of Commons, in the supplies for carrying on the war this year, did not distinguish the proportions for the Navy (as is owned in the State), and it appears in the Act for the 2*s.* per libram that 430,000*l.* was appropriated, and the same was duly paid, to wit, 200,000*l.* for wages to seamen, 100,000*l.* for victuals, and 100,000*l.* for stores and wages to the Yards.

That in the year ended at Michaelmas 1690, the whole sum paid to the Treasurer of the Navy (as is found by the Book kept in the Treasury Office) was 956,668*l.* 14*s.* 11½*d.*, which differs little from the State; but in the same year there was paid out of the Exchequer to the Treasurer of the Ordnance, for sea service and for saltpetre, considerable sums of money comprehended in the sum of 375,835*l.* 14*s.* undermentioned, which (as the Commissioners of the Treasury conceive) ought to have been added to the payments for naval services in the year 1690; and they desire it may be considered whether, with respect to the deficiency of some of the fonds, the greatness of the army that year employed in Ireland, and the great charge of transport ships, whose payments in that year are put to the account of the Forces, the said sum of 956,668*l.* 14*s.* 11½*d.*, and the said further payments to the Ordnance for sea service, may not together amount to a proportion as great as could be spared to the Naval Services out of the supplies of the said year.

[1691]—

This is the first year for which regular Estimates were brought into the House of Commons and agreed to there, amounting (besides the money for the 27 ships) to 1,791,695*l.*, towards which the Parliament provided by appropriating to the Navy and Ordnance for marine services the sum of 1,700,000*l.*, that is to say, 1,000,000*l.* on the first 12 months Aid, to be distributed pursuant to directions of the Commissioners of Admiralty, and the other 700,000*l.* on the two-thirds of the Additional Excise, called the Double Nine-pences, for the Navy and building of ships; and the whole 1,700,000*l.* was justly issued or assigned to the said uses, although but part thereof is in the sum of the payments contained in the aforesaid State, which in this, as in other cases, seems to reckon only such payments as were made to the Navy at or before Michaelmas in each year omitting the payments to the Ordnance for the sea service.

1693. — No. 751 (a).

There was further paid in the year 1691, reckoning to Michaelmas only, for building the 27 ships of war, 14,800*l.*, and for their guns, 1,939*l.* 7*s.* 7*d.*

[1692]—

All the payments to the Treasurer of the Navy between Michaelmas 1691 and Michaelmas 1692 amount to no more than 1,239,209*l.* 2*s.* 4*d.*, besides the payments which in the same time were made to the Treasurer of the Ordnance for sea service, and in the said several payments was comprehended the sum of 1,000,000*l.*, which was appropriated to the Navy and Ordnance, and was completely issued to them in the proportions directed by the Act for the second twelvemonths' Aid. And the Lords Commissioners of their Majesties' Treasury cannot possibly know the particulars which compound the sum of 1,495,358*l.* 7*s.* 8*d.* in the State mentioned, unless the said State be explained by expressing the time in which those moneys were issued.

[Owing for several services, etc.]

This sum in the State is added to the total of the supplies intended, though this debt was never really provided for by the Parliament or any supply for the same; and, purely by such addition, the supposed deficiency in the State is augmented 196,840*l.* 17*s.* 11½*d.*,* which the Commissioners of their Majesties' Treasury conceive to be a plain mistake of so much.

[The proportion on these Estimates, &c.]

To have compared the supplies given or intended for Naval Services with the payments thereunto in each year, it is supposed that the moneys issued to the Treasurer of the Ordnance at the Exchequer for Sea Service of the Ordnance in every such year (whether estimated or not) might properly have been reckoned amongst those payments. But the State having reckoned them altogether in this place, in abatement of the supposed deficiency of 1,969,685*l.* 1*s.* 3½*d.*, and made them altogether to amount to no more than 178,812*l.* 18*s.*, the Commissioners of their Majesties' Treasury do find great reason to observe thereupon, That the moneys issued at the Exchequer for Sea Services in the Office of the Ordnance, from the 5th of November 1688 until Michaelmas 1692 (over and above such proportions as the Treasurer of the Ordnance in the said time hath received from the Treasurer of the Navy and Paymasters of the Land Forces) have amounted to the sum of 375,835*l.* 14*s.*, that is to say:—

	£.	s.	d.
From 5 Nov. 1688 to 30 June 1689 -	31,776	11	9½
From 30 June 1689 to 30 June 1690 -	84,150	0	0
For two-thirds of 82,500*l.* paid in that year for saltpetre - - - - -	55,000	0	0
From 30 June 1690 to 30 June 1691 -	61,093	19	5½
For two-thirds of 65,000*l.* for saltpetre in that year - - - - - -	43,333	6	8
From 30 June 1691 to 30 June 1692 -	69,783	0	9½
From 30 June 1692 to 29 Sept. 1692 -	30,698	15	3½
	£375,835	14	0

* *Note* in Margin: A mistake of 196,840*l.* 17*s.* 11½*d.*

1693.

No. 751 (*a*).

Which is the sum that ought to have been deducted on the other side, whereby the error * in the State plainly appears to amount to no less than 197,022*l.* 16*s.* in this particular.

[The remainder of what was deficient . . . . new ships.]

The sum of the deficiencies depends upon the adjusting the matters here in difference, upon which these observations are made.

And upon mature consideration of the accounts (whereof an Abstract is hereunto annexed), it may best be judged whether there has been money enough to answer the ends specified on the other side.

[Memorandum.]

As to the sum of 1,926,516*l.* 10*s.*, which was voted and appropriated for Marine Services in the year 1693, there hath been actually paid to the Navy and Ordnance for such services before the 10th of November instant, the sum of 1,907,608*l.* 1*s.* out of the funds given for this year, so that, reckoning only by the payments hitherto made out of the proper funds of this year, there wants no more than 18,908*l.* 9*s.* to complete the said appropriation, and the undisposed parts remaining of the said funds are more than sufficient to answer the same before the year's end.

That the further sum of 72,000*l.* hath been paid to the Office of the Ordnance for Saltpetre for the year, of which two-thirds ought to be put to the account of Sea Service, amounting to 48,000*l.* That besides the said payments out of the funds of this year, and besides the money for building the 27 ships of war, divers other considerable sums have from Michaelmas last to this time been furnished to the Treasurer of the Navy out of the revenues or fonds of preceding years.

So that the Commissioners of their Majesties' Treasury do not see how the Naval Services can in any sense be said to be deficient in their payments of this year, in which they have already received much more than was voted for them, though not near so much as the current expense of the Navy hath amounted to in this year, and particularly upon the head of Victuals.

[Note. The proportion, etc.]

† The proportion voted in the House of Commons and contained in the Appropriation by the Act of Parliament was at the rate of 8*s.* a man per month for the Naval Ordnance, which amounted to 171,652*l.*, and this is the sum which hath been actually paid to the Ordnance for Sea Service this year (besides the money for the Saltpetre), so that the State, which pretends to compare supplies with Issues or Payments, does in this single article manifestly omit no less than 64,369*l.* 10*s.* of the latter.

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* *Note* in Margin: An error of 197,022*l.* 16*s.*

† *Note* in margin: An omission of 64,369*l.* 10*s.*

Appended is the following :—

Abstract of the Accounts of the Public Revenues, Taxes and Moneys Borrowed from 5 Nov. 1688 to Michaelmas 1693.

	£.	s.	d.	£.	s.	d.
To Cash resting 5 Nov. 1688 in the Exchequer and in the hands of several Receivers				80,138	18	0¼
To money received within the time of this Account. vizt. :—						
Customs, being over and above the Drawings back by Debentures, Portage Bills, Allowances for damaged Goods, Salaries, and Incidents of Management	1,857,497	1	1			
Excise, to wit the Hereditary and Temporary, being 2s. 6d. per barrel, &c.	2,492,004	11	4			
Impo. on Linens, Silks and Brandies, &c., which determined 1 July 1690	143,880	9	6½			
Impo. on Tobacco and Sugar, which, by an Act 1o Jac. II. had continuance to Midsummer 1693, and from thence the duties on Tobacco are continued by two Acts, 1o and 4o W. & M. to 24 June 1698	504,540	6	10			
Impo. on Wines and Vinegar the like	583,913	17	11			
Impo. on East India Goods, &c., which began at Christmas 1690, and are to continue to 10 Nov. 1695	391,305	1	6½			
Duties on Low Wines, which commenced 24 Dec. 1690, and continue to 25 Dec. 1695	34,766	10	4½			
Double Excise (being 3s. 3d. per barrel) for one year from 17 Nov. 1690	610,641	16	3½			
Addl. Excise of 9d. per barrel, which commenced 24 July 1689, and ended 24 July 1692	502,502	5	7			
The Double Nine-pences, which commenced 17 Nov. 1691, and are to continue to 10 May 1697	471,038	16	7½			
The Complements of Excise, to wit, 21d. per barrel, from 17 Nov. 1691 to 24 July 1692, and 30d. per barrel from thence to 17 Nov. 1692	378,087	12	2½			
The New Additional Impositions on Merchandizes, which commenced 1 March 1692-3, and are to continue to 1 March 1696	13,993	11	0			

	£.	s.	d.	£.	s.	d.	£.	s.	d.
By Payment for the Service of the War, vizt. :—									
To the Treasurer of the Navy for the Navy and Victualling	6,262,826	1	11½						
To the Treasurer of the Ordnance for sea-service (besides the money paid to him by the Treasurer of the Navy and Paymaster of Land Forces	595,487	14	0						
				6,858,313	15	11½			
To the Treasurer of the Ordnance for Land Service				698,036	3	3½			
To John Boson, for service relating to the Ordnance at Examination				284	13	0			
To the Earl of Ranelagh for Land Forces				5,905,006		6½			
	£.	s.	d.						
To Mr. Harbord for Ireland	1,073,288	12	7½						
To Mr. Robert Henley, Assistant Secretary of Ireland for service of Ireland	4,560	0	7½						
To Mr. Fox and Lord Coningsby for Ireland and Transports	2,462,419	0	11						
				3,540,267	14	2			
To Collo. Hill, Governor of the Leeward Islands, for Arreaas of his own and the soldiers pay there				1,100	0	0			
							17,003,008	13	11½
To the Civil List							3,038,182	0	0
To the States General pursuant to an Act of Parliament				600,000	0	0			
To the Servants of King Charles 2nd pursuant to the same Act				60,000	0	0			

ABSTRACT of the Accounts of the Public Revenues, Taxes and Moneys Borrowed, &c.—*continued.*

	£ s. d.	£ s. d.
The Duties on Coffee, Tea and Chocolate, by an Act 1° W. & M., are directed to be collected at the Customs' House, since the same have been kept apart from the other Customs	11,517 10 0	
The Excise for 99 years in the Fond Act	59,078 15 10½	
Hearth Money, besides Management	220,065 19 11½	
Divers Small Branches and Casualties	307,737 17 8½	
The present Aid or six month's Tax	400,875 4 5½	
The 1st Poll	286,662 16 11½	
The 1st Aid of 12*d.* in the pound	495,604 4 9	
The Aid of 2*s.* in the pound	1,012,510 19 6½	
The Additional Aid of 12*d.* in the pound	506,255 9 3½	
The Review of the first Poll and additional Poll	23,051 9 10½	
The 2nd Poll	237,676 13 11½	
The 1st 12 months' Aid of 1,651,702*l.* 18*s.*	1,611,177 18 10	
The 2nd 12 months' Aid of 1,651,702. 18*s.*	1,607,482 3 1	
The Quarterly Poll	570,377 2 8½	
The 4*s.* Aid	864,700 4 3	
Joint Stocks charged by a Clause in the Continuing Act for 2 Quarterly Payments	21,609 10 0	
Review of the Quarterly Poll	3,314 4 2	
Arrs. of Poll money granted tempor: Car: 2*di.*	50 0 0	
The Contribution on the Million Act	881,493 14 2	
Post Office Revenue, besides charges of Management	283,675 11 2	
		17,388,389 11 2
	£.	17,468,528 9 2½
The Balance of the Accot. of principal money, being so much borrowed more than hath been repaid within this time		4,300,222 8 3½
	£.	21,768,750 17 5½

	£ s. d.	£ s. d.
To the Mint, out of Coinage Duty	35,734 2 9	
For Redemption of English Captives	1,958 12 4	
To several persons, in repayment of princip[l]. Money lent in the time of the late K. J. 2nd	138,412 19 9	
To several persons for Interest moneys	610,356 12 10½	
To several persons for moneys which they advanced in the West or in Holland	4,000 0 0	
To discharge the Exchequer of so much which was advanced to the Privy Purse in the time of the late K. J. 2nd	200 0 0	
To Contributors on Survivorship or Annuities	5 0 0	
		1,450,667 7 8½
	£.	21,511,858 1 7½
By Balance in divers Remains at Michas. 1693		256,892 15 9½
	£.	21,768,750 17 5½

1693.

(*a*)[1]. 24 Nov.—Account dated 10th November 1693, of all the Appropriations for Marine Services made by Acts of Parliament since the 5th of November 1688, as follows :— No. 751(*a*)[1].

	£.	s.	d.	£.	s.	d.
Anno 1690. On the Aid of 2/ per libram :						
For wages to Seamen - - -	200,000	0	0			
For victuals - - - - -	100,000	0	0	400,000	0	0
For stores and wages to the yards -	100,000	0	0			
Anno 1691. On the first 12 months' Aid :—						
To be applied to seamen's wages, stores, provisions, victuals, and for the expense of the Office of the Ordnance in respect to Naval affairs as the Commissioners of the Admiralty should direct - -				1,000,000	0	0
Eod. Anno :—						
On the Act for Additional Excise for building 27 ships as the money shall come in - - - -	570,000	0	0			
By the same Act for wages, Anno 1691, and building three Third rates, &c. - - - - -	700,000	0	0	1,270,000	0	0
Anno 1692. On the second 12 months' Aid :—						
To the Navy for Victuals - -	235,105	4	10			
Wages - - - - - -	352,657	17	2			
Wear and tear - - - -	340,283	18	0			
Docks at Portsmouth - - -	10,083	4	0			
Ordnance Sea Service - - -	61,869	16	0			
				1,000,000	0	0
Anno 1693. On the Aid of 4/ per libram and on all other funds given for that year 1,226,516*l.* 10*s.* in all 1,926,516*l.* 10*s.* :—						
For victuals at 1*l.* a man a month - - - - -	429,130	0	0			
For wages at 1*l.* 8*s.* 6*d.* a man a month - - - - -	611,510	5	0			
For wear and tear at 1*l.* 8*s.* 6*d.* -	611,510	5	0			
Yard at Plymouth - - - -	23,406	0	0			
Four bomb vessels - - - -	10,908	0	0			
Eight Fourth rates - - -	68,400	0	0			
Ordnance Sea Service at 8/ - -	171,652	0	0			
				1,926,516	10	0
				£ 5,596,516	10	0

Endorsed (No. 1). [Appended to preceding.]

(*a*)[2]. 24 Nov. Moneys voted for Marine Services, as follows :— No. 751(*a*)[2].

	£.	s.	d.
Anno 1689 - - - - - - - - - -	700,000	0	0
1690 - - - - - - - - - -	400,000	0	0
1691 - - - - - - - - - -	1,791,695	0	0
Eod. Anno. More for building 27 ships as the money should come in.			
Anno 1692 - - - - - - - - - -	1,575,890	0	0
1693 - - - - - - - - - -	1,926,516	10	0
	£. 6,394,101	10	0

Endorsed (No. 2). [Appended to (*a*)].

1693.

No. 751 (*b*).

(*b*) 5 Dec.—Reply of the Commissioners for stating the Public Accounts to Observations made by the Lords Commissioners of the Treasury on the state of supplies for the Navy, delivered to the Right Hon. the Lords Spiritual and Temporal in Parliament assembled; as follows:—

The Commissioners for stating the Public Accounts do in the first place acknowledge your Lordships' justice and respect in transmitting to them the Observations made by the Lords Commissioners of their Majesties' Treasury, upon the State delivered to your Lordships in pursuance of your order, and upon this occasion crave leave to represent to your Lordships that they have with the utmost diligence and fidelity endeavoured to discharge the trust reposed in them by Act of Parliament in the whole course of their proceedings, and have again maturely considered and examined the said State and Observations made thereon; and upon the whole cannot find any just reason to depart from the Account given of money deficient to the service of the Navy; which they hope will be fully made out by the following Answers to the Observations, which for method's sake are answered year by year.

[Here follow the Observations on the left-hand pages and the Reply on the right-hand pages. The former are here omitted, having been given above (Annex *a*); the latter are as follows:—]

[Their Lordships . . . . complied with.]

As to Appropriations, none were made for the year 1689, and therefore, had nothing been distributed that year to the Navy, this Answer would have served, as well as it doth now for paying short.

Neither is the same . . . . designations thereunto.]

The Commissioners of Accounts know not what their Lordships mean by Designations. But that they have not paid the Navy sufficient for their occasions may evidently appear from hence, that at Michaelmas last there was owing to the Navy above 1,400,000*l.*, besides all cash and tallies then in the hands of the Treasurer of the Navy, of which above 1,000,000*l.* was due for wages to the seamen. And when it is further considered, that the Commons in all supplies for the Navy have provided not only for the necessary expense of money but the necessary supplies of new ships, under the head of Wear and Tear, it will thence follow, without further examination of particulars, that the Commissioners of Accounts in their State, have made no untrue representation of what was due to the Navy, and what was paid short thereof.

[It being most evident . . . . in the Paper No. 2; and Papers No. 1 and No. 2 (Annexes a^1, a^2).]

As to the two Papers, that No. 1, intituled, Account of all Appropriations for Marine Services made by Acts of Parliament since the 5th of November 1688, doth contain particular distributions of money appropriated, which we cannot find grounded upon Acts, Votes or Resolutions of Parliament. The other, No. 2, is intituled Money voted for Marine Services.

Upon both it is noted, that if they or either of them are intended as the rule by which the treasure was to be distributed, it is evident that the Navy must be starved. For No. 1 wholly

leaves out the year 1689, though the second Paper owns 700,000*l.* to be voted that year for Marine Service. 1693.

For the year 1690 neither Paper makes more voted for the Navy than 400,000*l.*, because so much was appropriated on the 2*s.* Aid. It is very strange, when the Commons in the two Sessions of that winter gave a supply of 3,200,000*l.* over and above the Revenue, which yielded above 1,000,000*l.* (besides what was appropriated to pay the States General and King Charles' servants), that no more should be reckoned as voted to the Navy than this small appropriation, when the whole was given for carrying on the War, and that their Lordships should take all the rest to be at liberty to be distributed to other services to which nothing was appropriated. Both papers leave out in every year, except the year 1691, the Ordinary for the Navy contained in the Estimate, but not provided for by the Commons, because it appeared to them, upon great debate and examination, that the Revenue could then bear those charges which did properly belong thereunto. No. 751 (*b*).

The Paper No. 1 is further mistaken in several Particulars, which possibly is an error in transcribing, and therefore not insisted upon here.

[But under the title . . . . carrying on the war.]

There is no cause to complain that very large sums, not enacted or voted for the Navy, are introduced in the State under the title of moneys intended, since the reason for putting in every such sum is therein plainly expressed, and it appears, by the sad consequences, that more money ought to have been spared to the Navy out of the Aids generally given for carrying on the War.

[especially . . . . not needless.]

Of how pressing a nature soever the supplies for the army in Ireland after Michaelmas 1689 was, that is no excuse for not paying the Navy before that time their due, especially considering great part of the debt pretended to the Irish army at the end of that War, will be found on examination to be occasioned by mismanagement. And no wonder the Navy had not that year their due, when there was more paid to Michaelmas 1689 by above 1,100,000*l.* for the Service of the Army than the Parliament voted, though they granted all that was demanded to that time for that service.

1689.

[It may be true . . . . for the year 1689.]

The Navy Estimates for 1689 amounted to 1,215,600*l.*, but because the Committee, to whom that Estimate was referred, had reported their opinion that the Ordinary for that year, which was demanded in the said Estimate, and allowed by that Committee to be 130,000*l.*, and the Summer and Winter Guard, which the said Committee stated at 366,080*l.*, and agreed ought to be defrayed out of the Standing Revenue, therefore the Commons gave but 700,000*l.*, towards the occasions and service of the Navy, depending that the rest would be paid them out of the Revenue; which shows why these two sums were added to the 700,000*l.*, and thereby make up that complicated sum of 1,196,080*l.*, which yet was short of the Estimate for that year. And it seems strange, that when that Session had, as aforesaid, consented to so much for the Navy, yet no more should be paid,

1693.

No. 751 (*b*).

including all issuing from the Exchequer to the Treasurers of the Navy between the 5th of November 1688 and Michaelmas 1689, than 490,332*l.* 16*s.* 3*d.*; and yet their Lordships own, in their Observations, the Revenue had then amounted to above 2,000,000*l.* a year, and what was voted for the Army (transports and artillery included) was but 411,752*l.* 1*s.* 7*d.*

It is desired to be noted that the Commissioners of Accounts, in the State delivered in, did not build that year's due to the Navy barely upon the opinion of that Committee (who apparently in some other things were mistaken), but upon the Statutes which gave and continued the Customs, wherein it is expressed, That the Commons, reposing trust and confidence in the Crown, granted those Duties for the guarding and defending of the Sea against all persons that should disturb the intercourse of trade, or invade the realm; and also upon the precedents, pursuant thereunto, used in the House of Commons, when Aids have been demanded in time of war, who have granted supplies only for that part of the charge which was extraordinary, over and above what was to be defrayed by the Revenue in time of peace.

It is not pretended, as the Observations mistake, that the ordinary charge of the Navy and constant guard of the Sea should have been in that, or any other, year defrayed out of 600,000*l.* per annum, said to be ascertained for the charge of the Civil Government (which it is not proper here to controvert), but out of the Revenue at large, which the Lords of the Treasury, though they allow them to be so great, yet are not pleased to give any reason why they did not thereout pay the Navy their due; and, allowing the Abstract of the Accounts annexed to the Observations as an evidence the moneys are otherwise spent, it is certain no Appropriation by Act of Parliament, or so much as a Vote or Resolution of the Commons, can be produced to justify such a diversion.

As to the Exception, that the Ordinary of the Navy that year did not amount to 130,000*l.*, that is no objection to the State delivered in, since so much was demanded for that service and allowed by the said Committee, and the Commons expected should have been paid. But this shows the necessity of examining Estimates, since the Observations affirm this Estimate not to be true; and yet there is more to justify it, in this particular, than those delivered in since.

The first year's Account, ending at Michaelmas 1689, is no way concerned with the 600,000*l.* to the States General, or the money to King Charles' servants, which did not begin to be paid till after Michaelmas that year.

To what hath been said may be added, that the Commons had regard to the Rebellion in Ireland, and the 22nd of March 1688 voted a Supply to their Majesties for an army to reduce that kingdom; and the war which ensued that year is an argument that the Navy, in the first place, ought to have been provided for, and what the Commons declared to be borne by the Revenue should have been paid the Navy, as well as that which was granted in further Aid for that Service, instead of which not one half was paid to them.

[That the said State . . . . until Michaelmas 1689.]

The first year's receipts and payments are stated, according to the directions by Act of Parliament to the Commissioners of

1693.

No. 751 (*b*).

Accounts, to begin their enquiry November 5, 1688, and end at Michaelmas 1689, that being most agreeable to the quarterly Accounts brought in to them.

[Whereas . . . the end thereof.]

What was paid after Michaelmas to the Treasurers of the Navy is allowed in the next year's account, which ends at Michaelmas 1690 ; and it is to be noted that there is not, in all the Observations, more pretended to be paid to the said Treasurers of the Navy in the whole than is mentioned by the said State.

[and there ought . . . sea service.]

As for payments to the Treasurer of the Ordnance, there is expressed in the said State, in the end thereof, all together what was due out of the said money at 5*s.* per head per mensem, which, on examination as to this year 1689, will be found to be more than the Lords of the Treasury pretend to have paid within that time.

1690.

[Here the 100,000*l.* . . . . . to the Yards.]

The Lords of the Treasury do not deny that the Navy Estimate for the year 1690 came to 1,597,376*l.*, the Ordnance excluded, but object (which is no way material) against the division of that sum to the Ordinary Summer and Winter Guard, and the Aids of Parliament for that year's sea service, which hath been fully answered in what is replied to the Observations of the last year ; for, if so much in the whole was due, and no more paid than their Lordships admit, the inference of the deficiency rests clear, nor is there reason for adding what was paid that year to the Ordnance, which was not included in the Estimate.

[That in the year . . . . of the said year.]

The Commissioners of Accounts do also desire it may be considered that their State of this year expressly excludes the Ordnance; therefore they cannot comprehend what should fairly induce anyone to make the payments to that office this year an objection.

And without entering into the matter of the deficiency of some of the funds, or the great occasions for money to the army and transport ships, it is not conceivable how 956,668*l.* 14*s.* 11½*d.* should be a reasonable proportion to satisfy 1,597,376*l.*, and about 700,000*l.* left unpaid the year before, besides the debt due November 5, 1688.

1691.

[This is the first year . . . for the sea service.]

This year justifies what the State expresses in the former years, that the Ordinary ought to be provided for out of the Revenue, because, the Parliament having consented to anticipate the Revenue of 1691 by a Loan in the year 1690, the Ordinary that year was provided for out of the Aids granted.

The Lords of the Treasury do agree this year the Grant of the Commons to be 1,791,695*l.* upon the Navy Estimate, besides the 14,800*l.* received that year on account of the money granted for building the 27 ships ; and yet they do not pretend in their Observations (taking the year as they reckon it) to have issued or assigned more than 1,700,000*l.* besides the said 14,800*l.*, so

1693. — No. 751 (*b*).

that their Lordships admit they have paid short 91,695*l.* of what they agree the Commons gave for that year; whereby it seems their Lordships do not think it part of the trust in them reposed, to distribute to the Navy what is granted for that service, unless it be appropriated by Act of Parliament; and if more was appropriated by Act of Parliament than the 1,000,000*l.* this year, it is of no consequence to this question of the deficiency of payments.

[There were further paid . . . . . 19,039*l* 7*s.* 7*d.*].

As to the 1,939*l.* 7*s.* 7*d.* said to be paid for guns for the 27 ships, the Commissioners cannot tell how this comes to be mentioned in abatement of what was paid short to the Navy that year, unless their Lordships did suppose the Commissioners of Accounts did not know this sum was paid September 24 out of one-third of the Ninepences appropriated for building the said ships, and is so expressed in the Certificates from the Exchequer, and therefore could be no part of the money mentioned in the said State to be granted to the Navy for this year.

1692.

[All the payments . . . were issued].

Their Lordships do neither own nor deny so much to be due to the Navy for the service of 1692 as is expressed in the said State, but say that 1,000,000*l.* thereof, that was appropriated to the Navy and Ordnance, was completely issued, which is not the question, but, why they did not pay the full of what was due to the Navy.

They further say, they cannot possibly know the particulars which compound the sum of 1,495,358*l.* 7*s.* 8½*d.* in the State mentioned, unless the said State be explained by expressing the time in which those moneys were issued.

In answer, the Commissioners refer to the State itself, wherein it is easily possible to be known by anyone that will read that matter fully explained in these words: *Note:* The Payments set down for the year 1692 contain all issued from the Exchequer between Michaelmas 1691 and 31 December 1692.

To which may be added, that, by reason of the different days of ending the Quarterly Accounts of the Treasurer of the Navy and the weekly Certificates from the Exchequer, there is in the said State, within the said time, allowed to be paid 13,000*l.* more than the Treasurer of the Navy doth own; whereby the deficiency to the Navy that year is 13,000*l.* more than the State expresses.

[This sum in the State . . . mistake of so much].

The Commissioners of Accounts take it to be no mistake to insert the debt due to the Navy on November 5, 1688, which deserved as well to be provided for as any other debts due to that time and paid since, which appear so to have been by the Abstract of Accounts annexed to their Lordships' Observations; and nothing can justify the postponing to all other services the Navy, wherein the chief and principal defence of this Kingdom, and support of the trade thereof, doth consist.

[To have compared . . . in this particular].

In the Observations, the supposed deficiency of 1,969,685*l.* 1*s.* 3½*d.* is not the sum mentioned in the State delivered to your Lord-

ships, for that to Michaelmas 1692 charges to be deficient 1,815,872*l.* 3*s.* 3½*d.* 1693.

This Observation made by the Commissioners of the Treasury gives an account of all moneys paid to the Office of the Ordnance for sea service from 5th November 1688 to the 29th September 1692, amounting in the whole to 375,835*l.* 14*s.*, wherein are included two sums, making together 98,333*l.* 6*s.* 8*d.* in the years 1690 and 1691 for two thirds of saltpetre, which is set down as part of the charge of the Navy, but ought not to be so charged until converted into powder and issued for sea-service, except their Lordships intend a double charge. No. 751 (*b*).

The remainder, being 277,502*l.* 7*s.* 4*d.*, is alleged to be paid within the said time to the office of the Ordnance, upon which it is Noted, That sum doth not amount to 5*s.* a head a month for the men employed within that time; for the number of seamen employed, according to Estimate, in the four years ending Michaelmas 1692, at 5*s.* a head per mensem for thirteen months, comes to above 350,000*l.*, whereas the payments to the Ordnance set down in the Observations to be made in those years, excluding saltpetre, amount to no more than 277,502*l.* 7*s.* 4*d.* Wherefore, though that sum was paid to the Ordnance over and above the payments to that Office by the Treasurer of the Navy, the whole payment upon account of sea service for those four years will not in the whole amount to 9,000*l.* more than 5*s.* per head, at which time the Treasurer of the Ordnance had a greater sum remaining in his hands on account of sea service.

As to the error pretended of 197,022*l.* 16*s.*, because the State allows so much less to be due for the share of the Ordnance for sea service, out of the money therein-mentioned to be intended for the Navy, the error of that Observation doth consist partly in what hath been already said, that 98,333*l.* 6*s.* 8*d.* had been issued for saltpetre, and charged on the sea service, which ought not to have been, and partly in not taking notice of what is plainly expressed in the State, that the money reckoned due to the Navy for the year 1690 was exclusive of the Ordnance, *which shows the error to be in the makers of the Observation, and not in the State delivered to your Lordships.*

[The sum of the deficiencies . . . are made].

It is agreed the sum of the deficiencies depends upon the adjusting the matters upon which the Observations are made, which being fully and clearly answered, the inference made in the State remains entire.

[And upon mature . . . . on the other side].

And upon mature consideration of the Abstract of Accounts annexed to the Observations, nothing is more evident than all the money received hath been spent without distributing the due proportion to the Navy.

And if their Lordships had been pleased to have added to the said Abstract a state of all arrears due to the Navy and Army, it would then appear how much the debt to the Navy, in proportion, exceeds that to the Army, and consequently how the Navy hath been neglected, when the payments to the Army have exceeded the Establishments.

1693. 1693.

No. 751. (*b*) [As to the sum . . . . . of the latter].

What was due to the Navy for this year, including the one-third of the Nine-pences to the 10th of November, appears in the State to be 2,091,416*l.* 10*s.* The Observations do not deny anything of that charge, nor say that any more money was paid to the Treasurer of the Navy to the said 10th of November than is contained in the said State, but insisteth on the payment of 48,000*l.*, two-thirds of 72,000*l.* paid on account of saltpetre, and of 64,369*l.* 10*s.* paid to the Treasurer of the Ordnance for sea service this year at 8*s.*; whereas the State allows but 5*s.*, and thence they infer a manifest omission of 64,369*l.* 10*s.*

As to the saltpetre, no more need be said than what is answered already to that Observation upon former years.

And as to the computation of the Ordnance by 8*s.* per head per month, which their Lordships affirm to be the proportion voted in the House of Commons, and contained in the Appropriation by the Act of Parliament, until such a Vote of the House of Commons, or such an Act of Parliament of the last Sessions be produced, by which this may appear, it cannot be reckoned a manifest omission. But in the meantime, it is hoped that the particular distributions of the Lords Commissioners of the Treasury will not be esteemed as Votes of the House of Commons or Acts of Parliament. And although by an Act made last Session for granting 4*s.* in the pound to their Majesties, it is referred to the Lord High Treasurer or Lords Commissioners of the Treasury to make a just and proportionable distribution of 700,000*l.* by the said Act appropriated, it may be observed, that the allowance of 8*s.* per man per month to the Ordnance, doth not only exceed all they issued in the four last years, which, as hath been mentioned, amounts but to 5*s.* without the payments for saltpetre, and, with those cast in, doth not come to 6*s.* 6*d.*, so that their Lordships had no guide for this distribution by any precedent since this War, or by the necessary expense of that Office for sea service.

Upon the whole matter, nothing appears in the Observations to discredit the Accounts in the State delivered to your Lordships, that so much was due to the Navy as is there specified, and no more paid than is therein mentioned, except for saltpetre and the Ordnance, which is herein answered; And therefore the inference in the State is truly made, that at Michaelmas 1692 there was due to the Navy 1,815,872*l.* 3*s.* 3½*d.*, besides 173,929*l.* 11*s.* 1*d.* due to the 10th of November 1693, making in the whole *One Million, nine hundred, eighty-nine thousand, eight hundred and one pounds, fourteen shillings and fourpence halfpenny*, besides what hath been paid by the Treasurer of the Navy for extraordinary services, on account of transports, the Descent, Marine Quarters, and money drawn out of his hands by Privy Seals, upon which no Observation is made by the Lords Commissioners of the Treasury.

As to the excuses made for this deficiency in payments to the Navy, and the consequences thereof, with relation both to the defence and trade of these Kingdoms, they are submitted to your Lordships.

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And if the Abstract annexed to the Observations is introduced by the Lords Commissioners of the Treasury only to show that the money received is spent, there needs no further reflection to be made thereon. But whether their Lordships have made just and proportionable distributions thereof to the uses required, is in like manner submitted to your Lordships.

Signed Tho : Clarges.
Paul Foley.
Sam : Barnardiston.
Benjamin Hewland.
P. Colleton.
Ro : Harley.

Noted. Brought in by the Commissioners' Secretary for stating the Accounts of the Kingdom, 5°. Dec. 1693.

[Delivered in at the Bar this day by the Secretary of the Accounts Commissioners. (MS. Min. ; No entry in L. J.)]

752. Nov. 20.—Boswell *v.* Mascall.—Petition and Appeal of John Boswell. Gregory Odiarne, one of the Defendants in Chancery, being indebted to Stephen Odiarne, another Defendant, in 266*l.* 16*s.* 3*d.*, Stephen in 1672 obtained judgment in the Common Pleas against him for 534*l.* debt besides cost of suit, and, none of the money being paid, took out in 1686 an *Elegit*, by which 57 acres of marsh land in Kent were extended, as the moiety of all of Gregory's lands in that County. Stephen afterwards, having occasion for ready money, assigned his interest for 200*l.* to Appellant. Respondent, pretending to have a mortgage on the lands, brought a Bill in Chancery to be relieved against the judgment, and, on 3 April, 3 Jac. II., obtained a decree from the Lord Chancellor. Exceptions being taken to the account as taken by the Master, the matter was heard on 30 April, 1691, by Lords Commissioners Maynard and Keck, who refused to order Appellant to prove the particular items. This decision was reversed on a re-hearing on 12 Nov. 1691, when Appellant was taken by surprise. Appellant accordingly proved the items, so far as the length of time allowed, but the Master, by an ex-parte Report, certified that none were proved, and Appellant's Exceptions were overruled on 23 Feb. last by the Lords Commissioners, who confirmed the Report and stayed his proceedings on the judgment. Appeals from the orders and proceedings in Chancery. *Signed* Jo: Boswell : *Countersigned* Wm. Leigh and Jo: Clayton. [Read this day, L. J., XV. 302. The cause was heard on 12 Jan. 1693–4. *Sir William Williams* (for Appellant) : The Appeal is to discharge two Orders, whereby there is a perpetual injunction, to discharge proceedings at law. These 260 odd pounds were paid. Here are actual payments made. We shall produce the stated account in 1692 between the brothers. We shall read our vouchers. L. Jeffreys' decree read. They read the whole decree of 1692, and the several items in the account, 4 Feb. 1672 ; read the account stated. A bond dated 24 May, 1679. *Sir Thomas Powys* (for Respondent): When we had bought the land, we heard of the mortgage, and they will appear brothers in iniquity. We paid off the mortgage, 400*l.* more. One of these gentlemen mortgaged his land seven times over, and got 1,400*l.* of 23*l.* per annum. Now comes Mr. Boswell, the Appellant, and says : I am innocent. This was got by a trick of Boswell's, and afterwards it was referred back by the Court to a Master. *Mr. Jennings* (for Respondent) : Boswell is to stand in the

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place of one of the brothers. In 1673 there was a Judgment; in 1679 a mortgage; in 1683 comes our purchase. Now there was very good ground of actual payment. By the will the profits were to be received by Stephen. They read that he was in prison, and a necessitous man. John Tony read fol. 17. 23 Interog; he sent Stephen Odiarme 100*l.* Boswell's Answer read. *Counsel* for Appellant heard in reply. L. Keeper reported, and decree affirmed, and Appeal dismissed with 40*l.* costs. MS. Min.; L. J., XV. 341.]

Annexed:—

(*a*) 4 Dec.—Petition of John Slaughter, Respondent's Clerk in Chancery, for further time to answer, Respondent living about 70 miles from London. *Signed* Jo^{n}. Slater. L. J., XV. 313.

(*b*) 13 Dec.—Answer of John Mascall, of New Romney, in the County of Kent, Gent., Executor of the last will and testament of William Hogben, Gent., deceased. Gregory Odiarne, having two sons, Stephen and Gregory, devised 90 acres of marsh land to Gregory in tail, but appointed Stephen to receive the profits, about 80*l.* a year, till his brother came to 30 years of age, and paying 30*l.* a year for Gregory's education till he reached that age. The testator died in 1668, and his son Gregory, on reaching the age of 30 and being in possession, conveyed by lease and release 30 acres of the premises for 450*l.* to William Hogben, covenanted to be free from all incumbrances. Two years later William Russell and Thos. Bracken, in right of their wives Elizabeth and Anne Worley, who claimed the 30 acres under a mortgage made by Gregory to them and one Mary Alchorn, whose assignees they were, for 489*l.*, brought an Ejectment against Hogben in 1685 and obtained a verdict. Hogben agreed to pay off the mortgage with costs, but died before perfecting the agreement, devising the premises to be sold for payment of his debts and legacies, which exceeded the value of the estate. Respondent, his Executor, paid the mortgage and costs to Elizabeth Rupell, widow, the assignee of the mortgagees. Stephen, in conjunction with Gregory, then claimed the reversion of the premises after his brother's death, under a pretended conveyance by Gregory in consideration of a debt of 266*l.* 16*s.* 3*d.*, on an account stated between them, for security whereof Gregory had entered into a judgment to Stephen, both which judgment and account were clandestine and not set up till long after Hogben had purchased the premises. By virtue of this pretended judgment, Stephen in 1679 extended two-thirds of the lands and assigned them to Appellant without any valuable consideration. Stephen was a man of ill reputation, and had several times mortgaged his lands for more than their full value. The Order of 30 April, 1691, was made by surprise and *ex parte*. The decree complained of is just and reasonable. Prays that it may be affirmed and the Appeal dismissed with costs. *Signed* by Respondent; the counter-signature of Joh: Brewer appears also, but is struck through. *Endorsed* as brought in this day.

(*c*) 2 Jan. 1693–4.—Petition of Appellant for a short day for hearing. *Signed* by the Appellant. L. J., XV. 331.

(*d*) 17 Feb. 1693–4.—Petition of Respondent. Their Lordships have dismissed the Appeal with 40*l.* costs, which Appellant refuses to pay. Prays that an order may be made for his relief,

as is usual in such cases. *Signed* by the Respondent. L. J., XV. 372.

753. Nov. 21.—D. Southampton's Privilege (J. Poole).—Petition of John Davis and Joseph King, Petitioners, who are in custody of the Black Rod for arresting John Pool, menial servant of D. Southampton; did not know that Pool was protected or in any way belonged to the Duke, having an employment in the Custom House. His name is cancelled in the Counter Books, where Protections used to be entered. As to the Protection which Pool has shown Petitioners since his arrest, Davis believes it was obtained and dated after the action was entered.* Pray to be discharged. *Signed* John Davyes, Joseph King. [Read this day and rejected. L. J., XV. 301.]

Annexed;—

(*a*) 22 Nov.—Petition of same. Petitioners are heartily sorry for their offence and implore their Lordships' pardon. Pray to be discharged. *Signed* Joseph Kinge, John Davis. [Read this day, and they reprimanded and discharged, having asked pardon of the House and the D. Southampton. MS. Min. of date; L. J., XV. 304.]

754. Nov. 22.—Privilege of King's Servant (T. Carter).—Petition of Thomas Carter, Esq., one of the Gentlemen of his Majesty's most Hon. Privy Chamber in Ordinary. Sir John Carter, of co. Denbigh, Wales, died greatly in debt, which debts Petitioner cannot pay but by sale of the estate, for which an Act of Parliament is necessary, the estate being entailed on his marriage. Petitioner is preparing a Bill accordingly, but has been arrested by Mr. Edward Lisle, Mr. Henry Bourn, and Mr. Edward Brewerton, three of the creditors, and is kept in close custody in the house of one Murrall, a Bailiff in Wych St., St. Clement Danes, notwithstanding his privilege. Prays their Lordships to order his discharge, as was done in the case of Fitzgerald and others. *Endorsed* as read this day and nothing ordered on it. [No entry of any proceedings on the Petition this day, either in L. J. or MS. Min.; but it appears from MS. Min. that it was read the next day, and gave occasion to the Order refusing to receive any Petitions for protecting their Majesties' servants (L. J., XV. 305). On 29th Nov. House moved concerning the Protestation in this case, and the Lords signing it ordered to attend on the following day, when, after debate, the 5th Reason was expunged.† (*Ib.* 309, 310; MS. Min., Nov. 29, 30.)]

755. Nov. 24.—Bridgeman *v.* Holt (In Error).—Copy of Petition of the Lady Isabella, Duchess of Grafton, and William Bridgeman, Esq., her Trustee, as follows:—

King Charles II. granted, by his Letters Patent, the Office of Chief Clerk to the King in his Bench to Wm. Bridgeman, Esq., for the lives of Henry E., of Arlington, Henry Lord Euston and of your Petitioner, the Lady Isabella, in trust for him, the E. of Arlington, for his life, and, after, in trust for the Lord Euston, his Executors, and administrators, to come after the decease of Sir Robert Henley.

Upon the death of Sir Robert Henley, your Petitioner, the Lady Isabella, by virtue of the said grant, was well intituled to the said office, but she was interrupted in receiving the profits thereof by Rowland Holt, Esq., brother to the Lord Chief Justice Holt, and by Edward

* Words to the effect that the arrest was on the 25th April when Privilege was out, are struck out.

† It is given *in extenso* in Rogers' Protests of the House of Lords, Vol. I. p. 111.

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The Writ of Error was brought in this day, after which the above Petition was presented and read, and the Judges of K. B. ordered to answer. (L. J., XV. 306).—On 1 Dec. the Answer of Sir W. Dolben, Sir Wm. Gregory and Sir Giles Eyre was brought in and read.* [*Q*]: Why a Bill of Exceptions was denied? Whether it be an Original Cause or not? *Ordered* to hear Counsel on the 8th inst. *Moved* that a Committee be appointed to consider of the Judges' Answer. *Ordered* that the Plaintiffs in the Writ of Error have time to assign their Errors until Monday sennight. *Moved* that the House be put into a Committee to consider of the Judges' Answer. After debate, *Question* put: Whether this House shall be now adjourned? Resolved in the *Negative*. Contents 28; Not-Contents 43. Tellers: D. Norfolk and E. Monmouth. *Moved* to put the House into a Committee to consider of the Judges' Answer. *Moved* to refer the consideration of the last Clause in the Judges' Answer to the Committee, and hear the Judges. Committee appointed to consider of the last clause in the Judges of K.B's Answer given in this day to the Duchess of Grafton's Petition, and to hear [them thereupon in order to explain

* This Answer, which was superseded by the one brought in on 7 Dec. (Annex (*a*) below), was withdrawn on that day.

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their meaning therein] *the Judges to the said Clause* * and report &c., as in L. J., XV. 311. *Moved* that all the Judges attend on the 4th inst. (MS. Min.).

In Committee on 2 Dec., E. Mulgrave in the Chair, the last Clause in the Judges' Answer was read. *Eyre, J.*, attending, is called in. The Clause read. He is asked whether he has anything to offer in the name of himself and brethren in explanation of the Clause. He says he went to one of his brethren, who is sick, and acquainted him, as well as he could, with their Lordships' sense. They intended no more than that the matter was not examinable in their judicial capacities upon a Petition in order to the end the Duchess prays by her Petition. It is but our defence to the accusation that is against us in the Petition. We intended no expression in the answer as undutiful to your Lordships. What is therein, is no more than we thought necessary for our defence in the matter complained of in the Petition. He withdraws. He is called in again and asked, whether he means that, if their refusing the signing the Bill of Exceptions be found to be a criminal matter, the Lords may not take cognizance thereof in a judicial capacity? He says, As advised, we say we are charged with a criminal matter, and that by the laws of the land we ought to be tried by our peers for that matter. We think a crime is not examinable upon a Petition to subject us to any censure. It may be examinable in order to direct a prosecution according to the course of law, and by the word "examinable" we intended no other. He withdraws. He is called in again and told that the Committee will allow him to rectify it in the sense he has explained it. He says he believes his brethren, as well as he, will be willing to do it, but they are not here. He withdraws. *Ordered* to report as in L. J., XV. 312 (Pet. Book).—*E. Mulgrave* accordingly reported that the Judges had with great modesty and dutifulness explained their meaning in the last paragraph of their Answer to the satisfaction of the Committee, who believed they would bring in another Answer instead, of which the House would judge when it came. Subsequently, on the same day, House *moved* that a Lord may explain what he meant by saying the Judges had misbehaved themselves to this House, &c., *see* last Calendar, p. 270, No. **631**. (MS. Min.; L. J., XV. 312).—On 7 Dec., *the Judges* brought in another Answer,† upon which the former was withdrawn by leave of the House. After reading the new Answer, the House ordered the Duchess to have a copy and Counsel to be heard on the 15th, the time for assigning Errors in the Writ of Error being extended to the 18th. (MS. Min.; L. J., XV. 316).

On 15 Dec., House moved concerning the Duchess of Ormond, &c., coming in at the hearing. Ordered that the Lady Duchess of Grafton and the other Peers' ladies with her, come within the Bar and chairs set for them. (In margin Duchess Grafton, Chair at Table). Then Counsel were called in. *Sir William Williams* (for the Duchess) moved that the other Counsel begin first, but was ordered to begin. He reads the order. The Petition is short and plain. The Writ of Error is deficient, and cannot be filled, by the Judges not signing a Bill of Exceptions. A Bill of Exceptions was allowed after the Verdict. The Bill was offered and refused to be signed, and so there is a lame record here, and the matter of law is stifled. We desire they may be ordered to sign the Bill of Exceptions. The Judges' Answer is no Answer at all. They say they are answerable only by indict-

* The words in italics were substituted for those in square brackets.

† Annex (*a*).

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ment, action or writ. They avoid to answer and pass over answering. I think they ought to do it by writ. The Petition, say they, is in the nature of an original suit. I think this full[y] the duty of Judicature in Parliament. There are errors in law and fact, and also the error now before this House, an error in giving directions to a Jury contrary to law. This error cannot be come at but here; this is manifest by the Statute 2 Westm^r. How can the Judges say, We won't, yet the Statute says, You shall. By this the Record is lame. Do they say who can do it? They say, this House cannot. This is as necessary to your Lordships' judicature as anything. This is of a new nature, say they. Is a Writ of Error new? No. Let them shew they ever did the same before. I find by a copy of a Record 13 Edw. III. the Bill of Exceptions was brought. Damages is the only remedy we come (*sic*) by a Writ of Assize. Say the Judges: You shall bring an action for damages. Would that bring us to the possession of our office? And so we may go from Judge to Judge, and no end. The Judges are on their oaths, and therefore supposed to be right. Are not Justices of the Peace so, and yet every day they err. They mention three Statutes, viz., 25 Edw. III. c. 4; 28 Edw. III. c. 3; 42 Edw. III. c. 3. Is not this a way to frustrate this Act of Parliament, to hide this Act? Men are subtle; these are things of great consequence to the Kingdom. The Judges say, I shall have no Bill of Exceptions. By this the people are denied of freedom by subtlety, and then am not I bound for ever by a single Judge? This is the way to keep the law in the room of Westminster Hall, and make this House useless. They say, this is a criminal complaint. We say, we now only desire a Bill of Exceptions. Is it any crime to call on men to do their duty? Mr. *Clerke* (for the Duchess): I speak only to the Judges' Answer, as to the three particulars in it. The Writ is no remedy at all. We can proceed neither way on these Judges. This is not at all in the nature of an original suit. If this were original, the obje[ction] were true; but we are here because we have no other remedy. This Act is of no use, except it puts a restraint on the Judges. We come not to punish, but that all things may be done according to justice. The Judges may over-rule what point they please. Here we require nothing but to sign as the St[atute] directs. We desire the whole matter before your Lordships. *Sir Thomas Powys* (for the Judges): I pray what I say may not be taken ill. I will observe on the face of the Petition there is that [for] which I hope you will dismiss it. The frame of the Petition is grounded on a supposed Act of Parliament, which was repealed 17 Edw. III. It says it shall lose the name of a Statute. They know this repeal was read. The method and manner of pro[cedure] now they would set afoot. If we show this method condemned by many Acts of Parliament, besides the St[atute] the Judges have recited, there are others. 1 Hen. IV. c. 14, reciting the great mischiefs that had happened by many Appeals, that is, where one charges another, it says no Appeal shall any ways be pursued in Parliament, 4 Hen. IV. c. 23; he recites it: After Judgment given in Courts below, the party shall be quiet. If this case is within these Statutes, I presume you will reject the Petition. This extends to the meanest Courts; Coke 2 Inst., fol. 337. If this had been in a mean case, it would have been extravagant. There are so many other ways to do it. I would ask if any person, before this Statute, could have come to the Lords? You would say, if there be no law, we cannot help you. Will they upon all occasions apply to your Lordships in such cases. They ought to endeavour to have a law. We insist that this is an original

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suit. Here is nothing complained of, but what may be done in Westminster Hall. Whatever proceedings they take there, may come before this House. They begin where they should end. As it is against the dignity of this Court, so it is against the method of proceedings. You have done this in E. Macclesfield's case,—sent it back. It is a great injury to the Defendant. We glory that our trial is to be by a jury. Here is no failure of justice, nor any reason to do an extraordinary thing. Nay, a man may sue the King. They may sue in the Common Pleas, the Exchequer. Still, say they, it must be before a Judge. This can come to nothing, for they cannot ask to assess damages. Should the Judges put this seal to a matter that is not true? A Bill of Exceptions is only admittance of evidence. Shall a person allege what he thinks fit and come to you [and say], pray order them to seal it. I would mention 4 Edw. III., Cotton's Abridgement, No. 6. Cotton's Abridgement 22 Edw. III. No. 30. The laws and process heretofore made could not be altered without a new law. Here the very process cannot be altered. 1663, E. Bristol exhibited articles in Parliament against the Lord Chancellor. This was referred to all the Judges, and they reported upon the Statute of Hen. IV. that this was not legal. We challenge the gentlemen to show at any time that there was ever an accusation begun by Petition; that Stat[ute] quieted all since. I pray the Lady may be left to take her remedy according to the methods of justice, and to that end they are ready to waive their privilege. *Sir Bartholomew Shore:* A Bill of Exceptions is a trick, and then a judge is hardly dealt with. Every verdict may be set aside by a fraudulent Bill of Exceptions. A judge may have reason to refuse a Bill of Exceptions. We insist we are bound by law not to sign this Bill. It is an affront offered to your Lordships' dignity. This Record has nothing in it. The Petition is all original matter. It is a maxim in law, if we have no extraordinary way, but by ordinary means. Here is ordinary ways—as a writ, then a Writ to own or deny that Seal. If a man be grieved, he may have an action for it. In this case an indictment or information lies. They contradict all law. They presume there will be a partiality. Here are several remedies. We insist they ought not to have come hither. By their own rule they are come hither too soon. You cannot impannell a jury nor assess damages. I would desire them to show me in what case they are to try for a Writ, and why hither. There must be some rules of distinction. This record or Statute they know was repealed. The Writ of Error is before your Lordships. Your judgments can be only on the Writ of Error. 1 Hen. IV. c. 14, that declares no accusation nor appeal shall be from that time, and so was the Judges' opinions in E. Bristol's case. This is not a way likely to accomplish the end. What if the Parliament be at an end before this? This case is not within or any way related to the Writ of Error. Your Lordships' jurisdiction does not attach but upon judgment. In Appeals you will not examine anything that was not below. This Petition is not by proper persons. In law it is only Mr. Bridgeman's suit, and yet the Duchess petitions. We challenge them to show any attempt of this nature by English petition as Mr. Bridgeman has here. We pray the Petition may be rejected. *Sir William Williams* (in reply): I will show what the Courts below have done. Yelverton's Reports, 33 Edw. I. In King Charles I.'s time the same was done again. *Sir Thomas Powys* was heard to reply to Sir W. Williams' precedents. Counsel withdrew. After debate whether the business be adjourned till the next day, *Ordered* that the Report be made to-morrow, no

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On 16 Dec. *the Lord Keeper* reported what was said by Counsel. *Moved* to consider the precedents cited. *Moved* to consider whether the Judges have done well or not in what they have done. *Moved* to consider how far this is or is not before the House. *Moved* to consider whether it is an original Cause or not. *Moved* to send for the Counsel in, and let them be told they should open the precedents, and the other Counsel to reply to it. No Question whether the Judges do well or ill. Suppose they have done ill, yet the matter is not before this House. Suppose they have done ill, whether you can apply the remedy? *Moved* particularly to consider whether it be an original cause or not? Whether the Judges of England are obliged to sign any Bill of Exceptions? Whether this be proper for the jurisdiction of this Court? Counsel to be called in and asked to those precedents that concern the jurisdiction in this case. *Proposed* that Counsel be called in as to the matter of precedents. *Question proposed:* Whether the Counsel shall be called in and informed that they, having yesterday made mention of several precedents which they did not open, that they should open such of those precedents now as they think material [otherwise there will be no regard had to them].* *Agreed to*; and *Ordered* accordingly. The *Counsel* for the Duchess and Judges were then called in, and informed by the L. Keeper of the Order. *Agreed* that the "presence" be called over on the 18th at 11 o'clock. (MS. Min.; L. J., XV. 323.)

On 18 Dec. Counsel were called in. *Sir William Williams:* I state the case briefly. It is only upon the jurisdiction of the Lords in Parliament. If they have no power, then the Judges are in the right. There have been some mistakes in looking into the Bill of Exceptions. We cannot yet examine whether they have denied it or not. The Statute of Westminster 2, cap. 31, commands the Judges, at the request of the part[y], to sign the Bill of Exceptions. The Judge does not say whether he ought to sign it or not, but says the Court has no jurisdiction. Reads the Statute. The Statute does not direct any Writ. The King is here in Parliament. [Case of] *Jeffry Stanton.* Parl. Roll, 14 Edw. III. No. 31. [*Noted* in Margin: *Dudley Downes* sworn to the truth of the copy.] He states the case. There was a real Writ in Common Pleas brought by Stanton. They read the Record in French. [33 Edw. I.]* *Sir Thomas Powys* heard in answer to what Sir W. Williams said to this Record. It was a Writ of Formedon. He complains of such a Writ was not proceeded on (*sic*). I take it your Lordships will not take this any great precedent, being 300 years since. The Judges in one Court ask the advice of another; so the Judges ask the opinion of Parliament. *Sir Bartholomew Shore:* This will have no (*sic*). This is coming *per saltum* hither. Then there was no insisting that you want a jurisdiction. We insist that in the 50 Edw. III. there was such an attempt, and the answer was: You must go to the King's Bench. *Riley* 665. 15 Edw. III. the Lords desire that all breaches of the laws the King (*sic*). 17 Edw. III. there is a repeal of all Statutes. *Mr. Clerke* is heard to Stanton's case. Though they say there is no pre-

* These words in square brackets are struck out.

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cedent since, yet there was that allowed. *Sir William Williams:* No. Edw. II. No. 1. He opens this precedent. That there are Receivers and Triers of Petitions. Here is a Committee. *Nash's* case 1641. He reads the Order, 20 May 1641. Report made by the Judge. *Sir Thomas Powys* is heard: This is a thing of course. 18 Dec. 1667, E. Macclesfield's case about the scandalous paper. *Sir William Williams* [cites] Roberts v. Wynn in 1663. 2 Inst., fol. 214, John Martin, Edw. I. 33. *Ryley* 63. Counsel withdrew. *Agreed* that the L. Keeper shall open the Statutes, if desired particularly. *The Lord Keeper* opens the case of Stanton upon a Writ of Formedon. *Agreed* that the proper Question is, whether this House has any jurisdiction in this matter, so as to order what is desired in the Petition? *Moved* to hear Counsel (1) to explain what the remedy is the law directs for the party, in case the House does nothing on this Petition? (2) to show, if there be any remedy, how ineffectual it will be? After long debate. *Question* put: whether the Judges . . . (*sic*). *Counsel* called in and told to attend to-morrow at 11 o'clock, to show what remedies the Petitioners have [in any other place]* in this case by the ordinary methods of law, and nothing to intervene. Plaintiffs allowed time to assign Errors till the 26th inst. The Lords to be called over by the List. (MS. Min.; L. J. XV. 324.)

On 19 Dec. *Proposed* to add the following words to the Question proposed to the Counsel yesterday, viz. ("and how far such remedy is like to prove effectual, in respect to the circumstances of this case"). *Agreed.* Whether that, by the methods the Judges of the King's Bench have taken, that in many cases they may not avoid many Writs of Error coming to this House? *Counsel* called in, and told by the L. Keeper what was ordered yesterday, that they are to show what remedies the Petitioners have in this case by the ordinary methods of law, and also what was this day agreed to be asked them. *Sir Thomas Powys:* Before the Statute there was no remedy but by finding specially. That Statute gives, as we think, good and effectual remedy. The Counsel may state the case and require the Judge to put his seal to it, and that makes it part of the Record, and both parties are concluded by it that it is true. Remedies if the Judge refuse;—(1) An Indictment or Information may be brought. This being a public act an Indictment lies; (2) He is also answerable to the party. He may bring his action against him for damages, and it is a jury's interest to give sufficient damages; (3) He may have the writ *de ponendo.* It is conditional *si ita sit.* If a Judge does not obey, there is an Attachment against him. Issue may be joined, and all come before this House by Writ of Error. (4) If the Judge is found to have insisted on a reason not sufficient, there is a peremptory Writ to command him: this is [done] every day, as in restoring Corporations. If the Plaintiff insists to have a Bill of Exceptions, there are all these remedies. Now there is no remedy for the Defendant in this case; he is undone, as in a title to an estate, as, if a title be set forth in the Bill of Exceptions this is matter of record, and the Defendant cannot aver against a Record. It will certainly befall the Defendant. A Bill of Exceptions is a State of the matter. If the Judge seal this, the Defendant can have no action against the Judge, and so a man is to be turned out of his estate. Our constitution is better and more safe, for both sides shall have an action against the Judge. *Sir Bartholomew Shore:* The Duchess has remedies at law; they have still the benefit of the

* The words in square brackets are struck out.

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Statute. They may proceed by Attaint. The Attaint is an effectual remedy, as Di (*illegible*). If that be a dangerous remedy, it is plain Attaints lie as Appeals. [As to the] means for reparation for both parties, if the Judge signs it with falsities, the Judge is liable. Before this statute, the Judge might direct the Jury ; they could only find specially, if they did not like it. The Judge is liable in this very action ; their body and estates are liable, and they are sufficient. There is a writ formed to execute this law, *si ita sit*. This admits of a Return, supposing it doubtful. There is an *Alias* and a *Pluries* Writ. The Judge returns that there was likewise given in evidence this Act was repealed. The Duchess is not at a loss in this case, having all these remedies. *Sir William Williams:* Have you any precedent for any one of these remedies ? It is proposed to indict the Judges, where the offence lies in Middlesex, and only in the King's Bench. Suppose an ill Judge, and a good client offer the Bill of Exceptions. This must be in the King's Bench only, and no other Court. This case stands on its own circumstances. Here are three criminals. Then the Chief Justice to try it. That is worse. This is against the law of nature. The party, if injured, may bring an action, and recover damages against the Judge. Suppose a Judge is not worth 6*d*. Suppose it was Sir R. Wright, who died in debt, what could be recovered ? Suppose the Judge dies, then the books say *Moritur actio cum personâ*. There is a remedy by the Writ P. S. Before this law, the subject was at the discretion of the Judges. Suppose matter arose plainly upon evidence. This I take to be the greatest power a Judge has, his taking evidence, and there is remedy only by Bill of Exceptions. I present, since the Statute, a Bill of Exceptions. I say I did present and offer it. The Judge overrules it. Says the Judge, I will not seal it. *Si ita sit* is what they go on. They misapply the words. The Statute does not form any writ ; it is formed in Chancery. It recites the Statute. The Bill of Exceptions does not recite the whole matter. The Writ is read by *Mr. Attwood*. Asked if there can be any averment against a Record ? *Sir Thomas Powys:* We put our cause upon this ; at the instant the Judge seals it, it is part of the Record, and there can be no averment against it, and it must be taken to be true. *Sir Bartholomew Shore:* We insist this is plain and clear. How, if this be so, can they make good there is a compulsory Writ ? *Sir Thomas Powys:* This is clear, if it comes to the Judge, "this was not," says the Judge, "the thing in dispute." Say the Counsel : It was. Shall the Counsel judge ? No, nor the Judge. Each are at liberty to stand on it, bring an action. *Counsel* for the Judges are asked, Whether in this case they will say in time this business can go, so that there can come a compulsory Writ ? *Sir Thomas Powys:* Suppose the Judges are in the wrong, then in this case it may come to it. I wonder they say a Judge can be sued only in his own Court. If an Act of Parliament should say it, it is void, and they cannot be sued in their own Court. *Question:* If in this trial in law the Judges had ended it, and not left it to the Jury, whether there could have been any matter of fact in the Bill of Exceptions ? *Sir Thomas Powys:* There is matter of fact. They must say the law was with us in such a point, the matter of fact being stated. Three ways this matter might have been brought before this House. *Question*: Whether the Judges ought not to have ordered the Jury to find specially ? *Sir Thomas Powys:* They might have demurred upon the evidence presently. *Sir William Williams* is asked, whether, when the Judges denied the Bill, did they refuse it for falsities, or did the Counsel offer

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to withdraw it and amend it? He says: We said we would appear. The Bill is not to be denied us. The Judges said, it is false; we said, it is not. They refused it. There were 6 of us signed it, and own it. *Question:* If a Judge sign a false Bill, what remedy has the Party? *Sir William Williams:* I say, if it be false, the Judge is not bound to sign it. We are six of us; we have some reputation. *Mr. Clerk* (for the Duchess) is heard to all the former points. *Counsel* withdrew, and the *Lord Keeper* reported what was said by the Counsel on either side. *Moved* to hear Mr. Attorney-General. He was heard to this Question: Whether in this case, if a Writ issue from the Chancery, the first Writ is conditional, then the second Writ is peremptory. Suppose the second Writ is refused. There is this course of the law, such a peremptory Writ is to be obtained. *Attorney-General:* I have read this Writ, and it is founded on the Statute of Westminster 2, That Bill of Exceptions tendered is refused. This Writ commands the Seal to be put to the Bill. The Writ does not relate to the verity of it, *si ita sit.* The Mandamus Writs are not like this. This is a mandatory precept, if by law the Bill ought to be allowed. I cannot take upon me the words *pro incumbente.* This Writ has its authority from an Act of Parliament. I never heard of any Cause to be tried out of Chancery, but in the King's Bench. The King's Bench try it by a jury, and whether this be a proper trial, I submit. I cannot think a Writ can be more peremptorily by the words *si ita sit.* It must be supposed, if the Bill was tendered, it must be sealed. This is a remedy, and will attain its end—to make the Judges sign it. ii Hen. 4; there was a question on an Assize. *Question:* Whether peremptory or not? If it had the regular steps? *Attorney-General:* I meant that that which is tendered to the Judges is to be true in fact. Whether it is sufficient in the law is not the question. The Bill of Exceptions contains the point in law which was in difference between the Judge and Counsel. *Proposed* to ask the Attorney-General: In the case of another, and not the Judges, suppose the Judges set their Seal, and it is made a Record, there is any remedy but what is left in the Judges—by refusing? *Attorney-General* heard to explain himself. I mean this, that what is the proper matter of a Bill of Exceptions, matter of fact or law, and was overruled.* *Question:* If a false thing be put to the Judges, what then? Is the Judge bound to seal that Bill? *Attorney-General:* He ought not. If in part false, it ought not to be allowed. *Question:* Whether false or true, if offered in the pleadings, the Judges are not to seal it? *Attorney-General:* As to the matter of fact, it is to be a deed. The deed was not proved. The Judge is not to allow that. *Holt, C. J.*, heard: Here is matter of fact tendered in a Bill of Exceptions. They suggest by Counsel, this is true. The Judges say, it is not true. Then the proper way is to go to Chancery. If the Writ be not returned, the Lord Keeper must have the reason, and if not obeyed, a severe penalty must be on the Judges. If this is not as effectual remedy as any in the world. *Eyre, J.:* I am tender in this matter, being a Judge in this matter. If I had done otherwise, I must have been forsworn, and then of all men most miserable. If we seal a false Bill, we subject ourselves to an action. If I had sealed this Bill, I must have allowed all the allegations true, which were all false. If I had injuriously refused it, [I should have] subject [ed] myself to a fine to the King and my office. If she may arrive at such an end in another way, we think we are

* Here follow the words "L. C. Justice Holt heard" expunged.

1693. — No. 755. in a wrong judicature. *The Lord Keeper* heard whether, in case a matter of fact be falsely alleged, the Judge is bound to seal it: Nothing more clear than that the Judge is not to seal, nor any colour for it. If false, the allegation in Court. I think as plain, for no Exception can arise but upon what is proved to be true. Till the fact be clear, the Judge is not to sign it. It must be fact proved, overruled by the Court. *Moved*, that the Bill of Exceptions be brought before this House. *Proposed*, that the Petition be dismissed. *Proposed* to hear Mr. Attorney as to the Writ out of the Petty Bag, which must be tried in the King's Bench, and in no other Court. *Moved* to hear Mr. Attorney to matter of fact. After debate, *Ordered* that Mr. Attorney be heard to speak to the matter in debate. *Attorney-General* heard: I did not understand the Bill to be false. If I had, I would not have signed it. The evidence was the King's Letters Patent. I was for the King in remainder. It was rested there, and the Lord Chief Justice, his title was by prescription. This was given in evidence against the King's title. We understood this to be a point in law, and we offered this as a matter of law, and there I left. I understand it was said, if you tender us a Bill of Exceptions, we will receive it according to law. *Proposed* Mr. Attorney be heard as to what Court this must be tried upon the Writ; if any, where then? in the King's Bench? *Attorney-General:* Admitting the remedy is by Writ, and it is to be answered, which may draw in matter of fact, these pleadings must be before the Lord Keeper, and by the Petty Bag in Latin form. If the issue be joined in the Petty Bag, it must be tried in the King's Bench, as far as I understand it, and then the Court of King's Bench gives the Judgment. *Proposed* to ask the Lord Keeper in this case. *The Lord Keeper* heard: I do not think this proper for me, I being the Judge of the Court where it is to come. (He proceeded): My present thoughts are, I take Mr. Attorney to be right as to the Petty Bag, and it must be tried in the King's Bench; but in this case, the proceedings will be quite otherwise. This Writ is returnable or not. If the Judges make an insufficient answer, the Chancery proceeds. The party may bring his action in the Common Pleas or Exchequer. If this Writ be not returnable, then, upon disobeying, an attachment, which may be in the Common Pleas. There will, one way or other, need be no proceedings in the Petty Bag. *Attorney-General* heard: If the Writ be returnable, it is what the Counsel insisted, to try matter of fact. If it comes in upon the attachment, it may be returnable in the Common Pleas, and then the other things vanish. *Moved* to hear the Counsel in this case, whether it can go any way than through the King's Bench. *Ordered* that Counsel on both sides attend to-morrow, and that the Judges and Mr. Petyt be summoned to attend, and no other business to intervene. (MS. Min. 19 Dec.; L. J., XV. 325.)

On 20 Dec. *Ordered* that no Lord sit at the Table in the Clerk's place, while the House is sitting [to write letters].* *Proposed* to ask the Judges, whether the Duchess could have relief otherwise than by this House, and, as to the Writ out of Chancery, whether by this Writ she might have redress and not stopped in proceedings, and whether, by the proceeding on this bar, it can be tried in any Court but the King's Bench. *Counsel* called in, and told by the L. Keeper that they must acquaint the House with the whole proceedings which are like to be upon the Writ *de ponendo sigillum*, and what will be the issue of that

* The words in square brackets are expunged.

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Writ. *Sir Thomas Powys:* There may be a Writ so. The Writ will be returnable, and an *alias*, and a *pluries teste*, one day after another. The *pluries* is *vel causa signific* [*etur*]; a Writ *de executione judicii*. He cannot traverse the [*? truth*], because he is no party to the Writ. He may bring his action in what Court he pleases. *Sir Bartholomew Shore:* Upon the *pluries*, cause may be shown, and the party [have a] remedy in any Court. There is no man makes question but the Writ must be returned. There never was any such thing pretended here as a return in the Petty Bag. The Lady Duchess has her plain remedy for damages in any Court. *Sir William Williams:* They can give no instance of such a proceeding in this case as this is. I take it, they go upon a false position. I know no *alias* nor *pluries* Writ. *Mr. Clerke:* This Writ is not commanded by the Statute, but formed on the Statute. This is an immediate Writ in the Register. They have travelled us in a path that none have gone in. *Counsel for Judges*, asked what precedent there is. The Register goes for an *alias*, then consequently there must be a *pluries*. No man can join issue in the Chancery upon the return. If there has not been the like done, is it any reason it should not? *Sir William Williams*, asked how the Lords can come to know the matter of fact upon what was done? You may send Commissions to all places in the world. Counsel withdrew. *Mr. Attorney-General* heard: He recites the question to the Judges. I know no writ of attachment, grounded in Chancery, returnable in the Common Pleas. The party may bring his action on the case in any Court. Whether that action will be adequate in this case, is in the judgment of your Lordships. There will be no necessity to carry it further than the Jury, if it be found false, that it was not offered. *Powell, B.*, heard: [As to the] question whether the Writ is a remedy, it is a full and adequate remedy in all points. I never knew any precedent in the very kind. This Writ is not returnable in the first instance. Our books say, where [there is] an *alias*, there must be a *pluries*. Then there is a *vel causam nobis significetis*. There is no traverse to be, as in the Petty Bag. It must be an action in any Court in Westminster Hall. This must be by a Jury, and if it goes for the Lady, she has her damages, and the Judge may be taken into custody. [As to] whether a Judge shall make a false Record, it is so if signed, a Record. *Turton, B.:* There is a very full and proper remedy for the Lady, by the Writ. I am of the same opinion. *Rokeby, J.:* I conceive the proceedings on the Writ is as effectual as if your Lordships commanded the Judges to do it. *Lechmere, B.:* This is a case without precedent. I have not found this, that I came in controversy. You have not the case before you, for want of part of the Record. Here is a remedy, and such a one as is in this case by the Writ. It is a remedy too easy, and so hasty that nothing more. The law is open; it may be falsified by the party grieved in a collateral action. *Powell, J.:* I am of the same opinion with my brethren. *Atkyns, C. B.:* This is your judicature, and so a question above us. [*In Margin:* Different opinion.] I agree what has been said about the Writ is so. I hold the Chancery has a jurisdiction. The action on the case they have by a Jury, and their trial is peremptory; it must be only undone by attaint. The damages shall be for the delay, and the office will be lost. Are not your Lordships satisfied to have the whole matter before you? If you are concerned, you should direct a way how the whole should come before you. I believe there have been trials by Juries at the Bar, and that you have directed trial. *Treby, C. J.:* I am of opinion with my brethren, that this Writ is an

1693. No. 755. effectual remedy. This is evident [ly] a proper remedy, for we find it in our ancientest Register, whence we fetch our arguments. There is no redress by Appeal here after the July [? Jury], your Lordships are Judges and not Jurors. A jury is matter of fact, and that uncontrollable. If the Jury find against the Judge, there is a peremptory Writ to sign, and then it is made part of the Record. *Moved*, that the L. C. Baron do offer an expedient in this case, and to adjourn till to-morrow. *L. C. Baron*, heard whether he is ready now to explain himself: I did not desire further time. I did not propose any remedy. Your Lordships ought to find out the way. I think I remember something of trials by Juries at your Bar, or by directions to be tried in another Court. I doubt whether I shall have anything more perfect hereafter than now. *Ordered*, that all the Lords be summoned to attend to-morrow who were here the first day, and that the House expects a just excuse, and the messenger to give the House an account. Debate adjourned till to-morrow, and nothing to intervene. *Ordered* that the L. C. Baron do then attend to give such other assistance as he can. *Ordered*, that Mr. Petyt do then attend. (MS. Min. 20 Dec.; L. J., XV. 325.)

On 21 Dec. *Atkyns, C. B.*, was heard: I did not desire to be heard again the last night. I take the case to be this: Mr. Bridgeman brings an Assize for the Office, and so repeated the proceeding in the Court below. He recites what was said by the Judges' Counsel, in relation to the Writ *de ponendo sigillum*, and to an *alias*. Let the party bring his action, say they, and after this a mandatory Writ, then attachment; this is penal enough. They desire your Lordships to give directions in this case. I think to make it appear [that], upon Petitions, this Court has interposed in matters at Common law and trials at law. Suppose a Writ be brought from the King's Bench; the judgment removed hither; day is given, and the Defendant comes in. He pleads he is released. That must be tried. If not tried here, you must give directions in it. The Lords' House has given directions in trials. 4 Edw. III. Nos. 16, 17, Berkley's case. 40 Edw. III. No. 14. A young man had sued out his livery; the Lords determined he was under age. 7 Rich. II. Cotton's Abridgment, Nos. 20, 21, fol. 300. An action in the King's Bench, and a complaint that there was a mispleading in it. 5 Ric. II. No. 45 and 6 to 8, 49, 50, the case of Cambridge. A complaint came hither. You sent for the Mayor and Aldermen and they deliver up the Deeds. 4 Ric. II. No. 48. You directed Commissions to try riots. You have a ground here, a Record removed. But it is defective. It is not only the party, but but (*sic*) are defective, and you can not have it, except you order directions to the Judges. I think you may give assistance. 4 Hen. IV. No. 21. Nicholas Poyntington petitioned the Lords against Sir Philip Courtney that they had dispossessed the Petitioners of their lands by force. The Lords, upon hearing this matter, adjudge the Petitioners shall bring an Assize, and limited them to plead the Petitioner was a bastard. I come to a Bill of Exceptions. Rastall's Book of Entries, fol. 275–6, side leaf. Error sur Bill de Except. The Margent is a *Scire facias ad cognoscendum sigill.* It is directed by the Court of King's Bench. 12 Edw. III. Riley's Placita Parl. I apprehend the action is not an adequate remedy. The action is only for the delay of the Office. *E. Mulgrave* acquainted the House from the Duchess of Grafton, that she is extremely sensible of the trouble she has given this House, and she desires she may withdraw her Petition. After debate, *Ordered* that Mr. Attorney-General bring witnesses to the Bar

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of this House, to prove whether a Bill of Exceptions was offered and refused in the Court of King's Bench in the case of Wm. Bridgeman *v.* Rowl. Holt, in a cause there lately depending. *Question* put: Whether this debate shall be adjourned to to-morrow? Resolved in the *Affirmative*. Contents 33; Not-Contents 31; Tellers, D. Norfolk and D. Somerset. Debate adjourned till to-morrow, and nothing to intervene. (MS. Min., L. J., XV. 326.)

On 22 Dec. Debate resumed on the two Questions of last night, viz., (1) Whether the Petition shall be withdrawn; (2) That Mr. Attorney-General do bring witnesses, &c. *Moved* that a small Committee of Lords withdraw, to prepare what shall be entered in this case. After debate, *Question*: Whether the Duchess of Grafton and William Bridgeman shall have leave to withdraw their Petition; that Mr. Attorney-General do bring witnesses &c. [as above]. *Question* put: Whether the addition concerning the Attorney-General shall be part of the Question? Resolved in the *Negative*. *Question* put, whether these words shall be part of the Question: ("And that, by what is arisen upon the debate, which has happened upon the Duchess of Grafton's Petition, and the Answer put in by the Judges, there are grounds to apprehend that the proceedings of the Justices of the King's Bench, in the case between the Duchess of Grafton and the Lord Chief Justice Holt, have occasioned a precedent which may straiten the jurisdiction of this House and the rights of the people; and do therefore think fit to take a further consideration of that matter; and, to this end, that a Committee be appointed, to consider of such methods as may be most proper for the further information of the House, in this particular and Report their opinions to the House, and that Mr. Attorney-General be ordered to attend that Committee") ? Resolved in the *Negative*. *Question* put: Whether the Duchess of Grafton and William Bridgeman shall have leave to withdraw her Petition? Resolved in the *Affirmative*. *Ordered* accordingly. (MS. Min.; L. J., XV. 327.)

On 17th Feb. the Record was remitted, Errors not having been assigned. (MS. Min.; L. J., XV. 372.)]

Annexed:—

(*a*) 7 Dec.—Answer of William Dolben, William Gregory, and Giles Eyre, Knts., three of their Majesties' Justices assigned to hold Pleas in their Court of King's Bench at Westminster, to the Petition of the Most Noble Isabella, Duchess of Grafton, and William Bridgman, Esq., exhibited by them to Your Lordships.

These respondents by Protestation, not owning or allowing any of the matters of the Petition to be true, as they are therein alleged, and saving to themselves the benefit of all the several statutes hereinafter mentioned, and all the right they have to defend themselves upon any trial that may be brought against them for anything done contrary to their duty as Judges, according to the due course of the Common Law, which right they hold themselves obliged to insist upon, in answer to the said Petition think themselves bound to show and offer to Your Lordships' consideration.

That the Petition is a complaint against them for refusing to seal a pretended Bill of Exceptions, contrary to a statute in that behalf, as the Petition pretends, without setting forth the tenure [tenor] of the said statute, or what that pretended Bill was; whereas that statute is the Statute of Westminster the 2nd, chap. 31, and

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doth enact that if any, impleaded before any Justices, doth offer an Exception, and pray the Justices to allow the same, and they refuse so to do, the party offering the Exception is thereby directed to write it and pray the Justices to seal it, which they, or one of them, are thereby enjoined to do; so that, if the pretended Bill was duly tendered to these Respondents, and was such as they were bound to seal, these Respondents are answerable for it only by the course of the Common Law, in an Indictment or Action to be brought on that statute, which ought to be tried by a jury of twelve honest and lawful men of England, by the course of the Common Law, or by Writ commanding them to sign the same, and not in any other manner.

And the Respondents further show and humbly offer to Your Lordships' consideration, that the Petition is a complaint in the nature of an original suit, charging these Respondents with a crime of a very high nature in acting contrary to the duty of their office, and so altogether improper for Your Lordships' examination or jurisdiction, not being any more triable by Your Lordships than every Information or Action for breach of any statute law is, all which matters are, by the Common Law and Justice of the land, of common right to be tried by a jury.

And the Petition is wholly of a new nature, and without any example or precedent, being to compel Judges, who are, by the law of the land, to act according to their own judgments, without any restraint or compulsion whatsoever, and trenches upon all men's rights and liberties, tending manifestly to destroy all trials by juries.

And it is further manifest that this complaint is utterly improper for Your Lordships' examination, for that Your Lordships cannot apply the proper and only remedy which the law hath given the party in this case, which is by awarding damages to the party injured (if any injury be done), for those are only to be assessed by a jury, and they, these Respondents, are so far from apprehending they have done any wrong to the Petitioners in this matter, that they humbly offer, with Your Lordships' leave, to waive any privilege they have as Assistants to this Honble House, and appear gratis to any suit that shall be brought in Westminster Hall against them, touching the matter complained of in the Petition.

And they further, with all humility, offer to Your Lordships' consideration that, as they are Judges, they are under the solemn obligation of an Oath to do justice without respect of persons, and are to be supposed to have acted in this matter with and under a due regard to that sacred obligation; and, therefore, to impose anything contrary upon them, may be to enjoin the breaking of it, which they humbly believe Your Lordships will be tender of.

And they further humbly show to your Lordships that, by a statute made in the 25th Edw. III., chap. 4, it is enacted that, from thenceforth, none shall be taken by Petition or suggestion to the King or his Council, unless by Indictment or Presentment of good and lawful people of the neighbourhood, or by Process by Writ Original at Common Law, and that none shall be put out of his franchise or freehold but by the course of the Common Law; and by another statute made in the 28 Edw. III.,

c. 3, it is expressly provided that no man shall be put out of land or tenement, nor imprisoned or disinherited, but by due process of law; and, by another statute made in the 42 Edw. III., chap. 3, it is enacted that no man be put to answer without Presentment before Justices, or matter of record, or due process and Original Writ, according to the old law of the land.

And the Respondents further say that, inasmuch as the Petition is a complaint in the nature of an Original Cause for a supposed breach of an Act of Parliament, which breach (if any be) is only [examinable and]* triable by the course of the Common Law, and not in any other manner upon this Petition, and would be, in the example of it, dangerous to the rights and liberties of all men, and tends to the subversion of all trials by juries, these Respondents conceive themselves bound in duty, with regard to their Offices, and, in conscience, to the Oaths they have taken, to crave the benefit of defending themselves, touching the matter complained of in the Petition, by the due and known course of the Common Law, and to rely upon the aforesaid statutes and the common right they have, as free men of England, in bar of the Petitioners any further proceeding upon the said Petition, and humbly pray to be dismissed from the same.

Signed W. Dolben, W. Gregory, G. Eyre.

Endorsed as brought in this day. And further "Duchess of Grafton had leave given to withdraw her Petition, to which this was the Answer, 22 Dec. 1693; and I delivered it to Mr. Dudley Downes, pursuant to the Order that night in the House of Peers. *Signed* Jn°. Walker."

756. Nov. 27.—Simpson *v.* Whorwood.—Petition and Appeal of William Simpson. Sir John Fortescue, being seised in fee of the manor of Over and Nether Shenly, co. Bucks, settled it, after paying his debts amounting to 5,000*l.*, on his daughter Elizabeth, wife of Respondent, and her heirs, and Respondent and his wife afterwards conveyed it to Edward Burdett, of Gray's Inn, Esq., in fee, in trust for them and their heirs. The rents of the manor amounting to little more than the interest of the 5,000*l.*, Respondent resolved to sell it, and in 1687 offered it to Petitioner for 15,000*l.*, on terms to be agreed on by him and Burdett, which Respondent promised to confirm. Articles were accordingly drawn up by Burdett, but some doubts about the title obstructed the sale. Petitioner contracted with Respondent and Burdett, at their request, for two woods, part of the premises, for 1,000*l.*, and for some other parts he held in leases for lives, for 1,000*l.* more, and an absolute conveyance thereof was executed to Forty and Powell, as trustees for Petitioner, who held possession for two years undisturbed, and Petitioner borrowed 1,800*l.* on the security of the premises so purchased. In 1688 further articles were drawn up by Burdett, giving Petitioner further time to make up the 15,000*l.* Petitioner sold several parcels of the manor, and contracted with other persons for other parcels; but the contracts were not completed, because Respondent went into King James' service and would not appear to execute conveyances nor produce deeds to show his title, nor had he applied any of the purchase money towards paying the debts charged on the estate, as was agreed. Petitioner in 1689 having come to Burdett to fulfil the articles by making up the 15,000*l.* by the money already paid by him, and the return of lands at the rates agreed on in the articles, Burdett,

* The words in square brackets are expunged.

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in Respondent's absence, persuaded Petitioner to accept further time till Christmas, and further articles were drawn up by Burdett for that purpose. In Sept. 1689 Respondent came to Petitioner and demanded a return of the lands unsold, to make up the 15,000*l.* Petitioner consented, and performed the articles in every particular, though Respondent was never offered more than 12,000*l.* for the manor before he treated with Petitioner. In Nov. 1689 Respondent brought a Bill in Chancery to set aside the purchases and articles, and Petitioner brought a Cross-Bill to discharge his purchases from incumbrances, and to have the benefit of the articles. The Lords Commissioners, on 10 Nov. 1690, dismissed Petitioner's Bill, and decreed that his deeds of purchase and articles should be set aside, and his 2,000*l.* with interest be repaid him ; and on 6 Dec. they ordered that, on Respondent bringing 365*l.* into Court, Petitioner should reconvey to him the purchased premises chargeable with the mortgage of 1,800*l.*, which last order was made absolute on 13 Dec. Appeals against these Orders. *Counter-signed*, T. Dyose, J. Wittewronge, who certify that there is good cause of Appeal. [Read this day (L. J., XV. 307.) The Cause was heard on 20 Jan. 1693–4. *Sir Thomas Powys* (for Appellant) : Articles were drawn between them, and that the lands in actual possession should be valued at 22 years' purchase, and so other rates. There is a clause in them in what manner the 15,000*l.* should be raised. The purchase is set aside in Chancery. We hope purchasers shall not be defeated, except the thing be clear and plain. After we made this purchase, we mortgaged the land for 1,800*l.*, and the Chancery says we shall re-convey. If they took the estate they should have indemnified us. *Mr. Dyas* (for Appellant) : Sir John Fortescue makes a settlement of the estate. They say they were surprised. These Articles, which they pretend they were surprised in, were done upon consideration. We submit whether the proofs in this Cause are sufficient. Asked how these rates were stated ? The Articles do not require the land shall be sold at this rate, but he proposed to make up the 15,000*l.* *Sir William Williams* (for Respondent) : This was a good price, according to the Articles. But the practice is, Here, that is money for land. "I will do," says he, "the best I can, but I doubt I shall be a loser, and if I cannot raise the whole money, will you take the land ?" "Yes," says Burdett. Here is the cheat. He pays but 2,000*l.* for land and wood, and the land is worth 1,100*l.*, and the wood 2,000*l.* and upwards. This wood, this land, bought without money or with, he mortgages for 1,800*l.*, and he is out of purse but 200*l.* *Sir Bartholomew Shore* (for Respondent) : If the Steward be the purchaser, it must be for the whole. He was never intended to be a purchaser. He was only bailiff at 20*l.* per annum. He actually receives his poundage. The greatest fraud of all is when he comes to return this land, he leaves out 17 rents and returns but 7,000*l.* for 1,100*l.* They read proofs of what they have urged. *Counsel* heard in reply on either side. Counsel withdrew and the L. Keeper reported. Petition dismissed and Decree affirmed with 20*l.* costs, after Question for £50 costs had been put and negatived. (MS. Min. ; L. J., XV. 347.)

Annexed :—

(*a*) 7 Dec. 1693.—Answer of Thomas Broome Whorwood, Esq. The Orders complained of were made after full hearing, and the proceedings thereon have been acquiesced in and submitted to by Appellant. Respondent is the rightful owner of the estate, a considerable part of which he has since sold for valuable con-

sideration. Prays that the Appeal may be dismissed with costs as vexatious. *Signed* Tho: Brome Whorwood; *countersigned* T. Vernon. *Endorsed* as brought in this day.

757. Nov. 28.—M. Carmarthen's Privilege (S. Beekes).—Paper stating that Samuel Beekes, etc. (as in L. J., XV. 308), with many others (having a drum amongst them), did on 11 Sept. last burn traps, fill in coney burrows and destroy a great number of coneys in M. Carmarthen's warren on Wimbledon Common, and though told it was unlawful, and that they would be severely punished by the Marquess, they continued doing so, shouting and encouraging each other, till they had levelled most of the burrows and killed most of the coneys, and also told the warrenor they would find him work for his other ten guineas, meaning, as the warrenor explained it, that he had reserved to himself ten out of the twenty guineas which, they had been informed, the Marquess had given him for the better stocking of the warren. *Noted* at the foot with the names of Wm. Vernon, Tobias Barton, Wm. Hadman, and John Barton, as witnesses. *Endorsed* affidavit against Wimbledon men 28 Nov. 1693. [On 25 Nov., the House being moved on behalf of the Lord President, M. Carmarthen, that Wm. Vernon, Tobias Barton and Wm. Hadman may be called in to prove a breach of privilege committed against him in his warren at Wimbledon, the said three persons were sworn, and deposed that they saw the men named digging up the burrows and catching the coneys in a riotous manner, viz^{t}., Sam. Beekes, Robt. Russell, John Mason, Sebastian White, Thos. Gill, John Langford, John West, Charles Palmer and Humphrey Buckland, all of Wimbledon, and George Richmond of London. *Ordered* that the matter be referred to the Committee for Privileges (MS. Min.; L. J., XV. 307).*—In Committee for Privileges, on 27 Nov., E. Bridgewater in the Chair, the following precedents were read, viz^{t}.:

11 Feb.	1664.	L. Vaughan.
21 Feb.	„	L. Lucas.
18 Dec.	1667.	E. Northumberland.
21 Feb.	1667.	
10 June	1678.	M. Worcester.
10 Dec.	1678.	
4 April	1679.	E. Manchester.
8 Feb.	1677.	L. Fitzwalter.

Then a Paper (the above) was delivered from the witnesses of what they said at the Bar upon oath†. *The witnesses* were called in and asked whether that Paper was true? They said it was, after it had been read to them. *Ordered* to report as in L. J., XV. 308. The Report was made this day. (*Ib.*) MS. Min. 28 Nov.]

758. Nov. 28.—Ashley *v.* Jemmatt.—Petition and Appeal of Henry Ashley, Gent. Respondents by their Bill in Chancery set forth that Charles I., by Letters Patent dated 1638, having given power to Arnold Spencer to make the River Ouse navigable from St. Ives to St. Neots and so up to Bedford, with the sole carriage of commodities and sole passage for boats on that part of the river to him and his heirs, Spencer made the river navigable from St. Ives to Barford, within

* A cancelled entry in MS. Min. on 20 Nov. states that a similar motion was made on that day in respect of "a riot in breaking up a warren"; but only Vernon and Buckland are mentioned.

† Vernon, Hadman and the two Bartons had been sworn at the Bar this day. MS. Min.

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4 miles of Bedford, but, from want of scouring and neglect, it grew foul again and unnavigable after his death. Spencer mortgaged his rights to Samuel Jemmatt, who demised them for 21 years to Petitioner, the present holder of the lease. The mortgage being long since satisfied, Respondents (Plaintiffs below), after the end of the lease, were entitled to a moiety of the river and navigation in right of the Respondent Ann, daughter and co-heir to Robert, son and heir of Arnold Spencer. In 16 Car. II. an Act was passed empowering Sir Humphrey Bennett and others to make the river navigable, with a proviso that, in case the Undertakers failed to open it up to navigation between Eaton Mills and Bedford by 1 Nov. 1671, the Commissioners appointed by the Act might appoint other Undertakers to complete the work and receive the profits. The Undertakers under the Act not having attempted anything by the time limited, Petitioner, by obtaining a Letter from James II. to the Commissioners and by fraud and misrepresentation, procured himself to be appointed Undertaker to the exclusion of Plaintiffs (Respondents) from their right as far as Barford, and pretends to carry the navigation to Bedford only for a colour, to the benefit of which Undertaking the Plaintiffs claimed no title save only to Barford Bridge. Petitioner, in his Answer to the Bill, stated that the Patent and Grant were null and void, having been obtained by a false suggestion. Spencer never enjoyed the sole passage or carriage on the river or any effect of the Patent; he purchased certain sluices between St. Ives and St. Neots, built long before the Patent, and standing, not in the river, but in several grounds adjoining it, for a convenient passage for boats past the mills there, for passage through which sluices an ancient toll is paid, and mortgaged these sluices and tolls to one Wingfield and Seel, who, for want of payment, entered on and managed and repaired the sluices for about 20 years, and then assigned them to Samuel Jemmatt; the latter immediately leased them to Petitioner, who has never enjoyed anything besides them, much less anything on that part between Eaton Mills and Barford Bridge, by virtue of the lease. Petitioner, about 7 years after making the lease, spent much money in endeavouring to perfect the navigation between Eaton Mills and Barford Bridge, not, however, by virtue of the lease or Act, but by purchases and agreements with several proprietors or by works on Petitioner's own ground, whereof he enjoys the toll. These works, however, failed to make that part of the river navigable at all times of the year, as the Act requires, but only in times of high waters, by reason of divers shallows and fords, which, being common highways, could not be made navigable but by a due authority. The Undertakers not having done anything, by reason of the difficulty and expense, Petitioner was appointed by the Commissioners under the Act of 1686 as Undertaker in their stead, not by any indirect means or pretences, but as a person experienced in the work. Petitioner has succeeded at great expense in completing the navigation. Neither Spencer nor Respondents have any rights on the river between Eaton Mills and Barford. On 2 July 1690 the Lords Commissioners, on hearing the cause, decreed that the Plaintiffs (Respondents) and the heirs of Ann, after the expiration of the lease, should have a moiety of all the profits on the navigation up to Barford Bridge, and, on receipt thereof, should reimburse Petitioner, at the expiration of the lease, a moiety of the purchase money for any ground bought by Petitioner for support and preservation of the navigation between St. Ives and Barford Bridge. This decree is unjust. Respondents, who did not share Petitioner's hazards and losses, ought not to share his profits. The alleged Patent was never

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put in execution. Moreover, it gave no power to make the river navigable to Barford Bridge, as suggested, but only granted a monopoly of carriage and passage to Spencer and his heirs from St. Ives to within 4 miles of Bedford, whereas the navigation had always been free and open from the place where it falls into the sea up to St. Ives and St. Neots and so to the place below Eaton Mills, where it ceased to be passable, great numbers of watermen constantly maintaining themselves by a free passage and carriage upon the river, who must be starved if the Patent be now put in execution. Whatever Spencer did became useless, not by decay, but because the works were built and made on other men's grounds, without any grant or conveyance or title, so that Spencer in his lifetime was ousted thereof about 30 years before the lease. The fords being highways, the scouring done was unwarrantable, because, by removal of the gravel, the highways over the river at those places were made impassable, for which Spencer was threatened to be indicted. Petitioner received no advantage of the lease taken from Jemmatt. Prays that the Decree may be reversed. *Signed* by Appellant; *Countersigned* Richard Holford, Robert Barker. L. J., XV. 308. [The Cause was heard on 17 Jan. 1693-4. *Serjeant Levinz* (for Appellant): We say this Patent was condemned by the passing of the Act of Parliament. In 1686 we became the Undertakers, and they would have it. *Sir Thomas Powys* (for Appellant): It is a point in law. They come to Chancery. There are cuts in the river which were anciently made, and we allow they have a title to it. One Arnold Spencer had it, and these are the grandchildren of him. Under the pretence of this toll they claim the whole toll to Bedford. They are content to Barford Bridge. This Arnold, who had the toll of these cuts, about 40 years since made some attempts to do this, but he has declined it many years. He obtained three Patents and neither worth 4*d.*, 16 Car. II., it being taken notice the river was not navigable further than Eaton Mills, where the Act says it ceased to be navigable, and the Act says they and no other shall have the passage and carriage there. This Act has damned and destroyed the Patent in 1674. Those who have the interest in the sluices come and make a lease for 21 years to Ashley, and we took it. We say this lease carried no more than the toll of the old sluices. The persons empowered by the Act were to complete it by 1671. In March 1686 the Justices appoint Mr. Ashley to go on with this, and he goes on with the work and completes it. In Chancery, judgment is given. They have decreed away his own land, which he has bought. (They read part of the Act.) *Sir Bartholomew Shore* (for Respondent): It is not material whether the Patent is good or not. We are not disputing between the people of Bedford and Undertakers, but between the patentee and the lessee. Mr. Spencer was the first Undertaker. We sold 1,000*l.* of lands to get the Patent, and ruined our family. Between Barford Bridge and Eaton Mills is the case, and we did make this navigable, and we have 30 or 40 witnesses to this. Mr. Ashley takes our moiety of us. This covenant to make this is one of the main ones in the lease. This lease was taken ten years after the Act of Parliament. Mr. Ashley comes to us for the lease, and after he had had it 10 years, he, to get the whole to himself, gets to be Undertaker. We have 34 witnesses to make out the lifting the goods over that sluice out of repair by Jemmatt's ancestor. He covenants to repair. We cannot bring an action for repair, he having done it. *Mr. Penton* (for Respondent): He is breaking the bridge he stands upon. This very man comes and takes a lease under us. All the country knew this

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was the interest of Arnold Spencer. We have a cloud of witnesses to this, and this man buys one moiety of the Patent. The intention of the Act is against them. In 20 years together there was no attempt. We have examined witnesses to this 60 years since. (He reads the words of the lease.) For the Appellant they agree that 50 years since they had made it indifferently navigable. They read witnesses to this purpose to prove it navigable, and that it was so at neither low nor high water, and that Mr. Spencer did it. *Counsel* for Appellant heard in reply and read witnesses. Counsel withdrew, and Speaker reported. Decree affirmed. (MS. Min.; L. J., XV. 345).]

Annexed :—

(*a*) 8 Dec. 1693.—Petition of John Jemmatt for further time to answer. *Signed* Jn°. Jemmatt. L. J., XV. 317. Almost *in extenso.*

(*b*) 8 Dec. 1693.—Affidavit of John Jemmatt that there are several deeds and other writings out of his hands and in the possession of Counsel and other persons now out of town, which are necessary for his Answer. *Sworn* 7 Dec. 1693 before Tho: Pitt. *Signed* Jno. Jemmatt. [Appended to preceding.]

(*c*) 30 Dec. 1693.—Joint and Several Answer of John Jemmatt and Anne his wife, one of the daughters and heirs of Robert Spencer, Gent., deceased, who was elder son of Arnold Spencer, Gent., deceased. Arnold Spencer, having, about 50 years since, built a sluice by Eaton Mills on land given him by one Gaius Squire, through which vessels passed to Barford Bridge, and having made a cut through a common called Blunham Ditch and other cuts called Stoneholme Ditch, Rickett's Holme and Hogg's Holme, and having ploughed and scoured Temsford Ford and all other fords between Eaton Mills and Barford Bridge, and thereby having made the river Ouse navigable to Barford Bridge, obtained by Letters Patent a grant of the profits of the navigation from St. Ives to St. Neots, and from thence to within 4 miles of Bedford, and so much further as he should make the river navigable, at a yearly rent 6*l.* 13*s.* 4*d.* He enjoyed the navigation accordingly for several years, and received the profits, but was impoverished by the expenses he had incurred; and some of his creditors, having obtained judgments against him, seized his Patent and received the profits for several years. On his death, the Patent descended to his son Robert, who died leaving two daughters, the Respondent Anne Jemmatt and Elizabeth, now wife of Nathaniel Jemmatt, the brother of Anne's husband John, who became entitled, at his death, to the benefit of the Patent. Samuel Jemmatt, of Reading, the father of Nathaniel and John, being entitled to the Patent under a mortgage made by Arnold Spencer, demised his interest to Appellant for the term of 21 years at a rent of 160*l.* a year, with a covenant for keeping the premises in repair. After Arnold became poor, the sluice decayed for want of repair and was dammed up for fear it should damage Eaton Mills; yet, after the same was dammed up, goods were usually carried over at Eaton Mills upon men's backs, and put into vessels on the other side of the sluice, and the navigation was continued to Barford Bridge through the cuts made by Arnold, through which cuts the river now is only navigable. After the lease made to Appellant, Samuel Jemmatt

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and the Respondent John Jemmatt and Nathaniel his brother (who with his wife have since conveyed their moiety of the navigation to Appellant's son, Henry Ashley) gave leave to Appellant to build a new sluice at Eaton Mills, and to make other works for continuing the navigation to Barford Bridge, on condition that the new works should be for the lessors' profit or those who had right to the navigation after Appellant's lease expired. Appellant built a new sluice accordingly, though not so convenient as the old one, and continued the navigation to Barford Bridge through the old cuts and works, by virtue of the lease and under no other title whatever, but under the condition that the new works made by him before he was appointed Undertaker should, at the expiration of the lease, be for Respondents' benefit as to one moiety thereof, and the profits of the lease were so considerable to Appellant, and the title under the Letters Patent deemed by him so good, that Appellant or his son, in trust for him or by his procurement, agreed to give Nathaniel Jemmatt 1,250*l.* for the purchase of his and his wife's reversion and inheritance in the moiety of the premises under the Letters Patent. Appellant, when appointed Undertaker, concealed from the Commissioners the title he had under the lease and under the purchase of Nathaniel's moiety, as well as Respondents' right to the other moiety. The cost of completing the navigation would have been far greater if the old cuts had not been used. The Act referred to in the Appeal contains a Proviso that all such boats as were accustomed to pass on the river before, should continue to do so freely, as before the Act, which is clear evidence that Respondents' right was intended to be saved; and Appellant, after being appointed Undertaker, continued to pay Respondents their moiety of the rent reserved upon the lease. The Lords Commissioners declared that Appellant ought only to be considered Undertaker of the part between Barford Bridge and Bedford. Pray that the Appeal may be dismissed with costs. *Signed* by Respondents; *Countersigned*, Barth: Shower, Henry Penton, N. Smythe. *Endorsed* as brought in this day.

(*d*) 9 Jan. 1693–4.—Petition of Appellant for an order to examine witnesses *viva voce*, as was done in Chancery, and for an early day for hearing. *Signed*, Henry Ashley, Sen^r^. L. J., XV. 337.

759. Dec. 1.—Triennial Parliaments Bill.—Amended draft of an Act for the frequent calling and meeting of Parliaments. The Bill, as introduced, was identical with the Bill of 12 Jan. 1692-3 (No. **660** Annex (*a*)), as finally amended by the Commons, and tendered for the Royal Assent. The Lords' amendments are given in the notes below. [Read 1^a^ this day. (L. J., XV. 311.) In Committee of the Whole House, the following proceedings are recorded:—

4 Dec.—House in Committee, Bishop of Salisbury in the Chair. Bill read through. Title and Preamble read and postponed.

Enacting Preamble read. A debate arose whether the word ("declared") shall stand in the Bill. *Question* put: Whether the word ("declared") shall be part of this Clause? Resolved in the *Affirmative*. Contents 59; Not-Contents 34. Tellers: E. Marlborough and L. Osborne. *Moved* that the words ("at the least") be left out of the Bill. A debate arose whether the word ("holden") shall stand in this Clause. *Question:* Whether the word ("holden") shall stand as part of this Clause? Resolved in the *Affirmative*. Contents 43;

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6 Dec.—First, second, and third Enacting Clauses read and agreed to.

Fourth Enacting Clause read: Fill the blank with ("twelfth day of September").* After ("ninety") add ("four").† After long debate, *Question* put: Whether this Clause, so amended, shall be part of the Bill? Resolved in the *Affirmative*.

Preamble and Title read and agreed to. House resumed. Bill reported with amendments, made by filling up the blanks, and ordered to be engrossed (MS. Min.; L. J., XV. 315).

On 8 Dec., the Bill being read 3ª, a Proviso was offered and read twice. After a long debate, *Question* put: Whether this Proviso shall be read a third time? Resolved in the *Affirmative*. Contents 59; Not-Contents 41. Tellers: D. Richmond and E. Scarborough. *Question* put: Whether this Bill, with a Proviso, shall pass into law? Resolved in the *Affirmative*. Bill passed and sent to the Commons. (MS. Min.; L. J., XV. 317).—In the Commons the Bill passed through Committee without amendment (C. J., XI. 35). On the third reading, the House, after negativing a clause added as a Rider, the contents of which are not given, negatived also by 222 to 131 a motion for leaving out the last clause in the Bill, viz., "That a Parliament shall be understood to * * holden, although no Act or Judgment shall pass within the time of their Assembly."‡ The further question, That the Bill do pass, was then negatived by 197 to 127, and the Bill was accordingly rejected. (*Ib.* 40.)]

760. Dec. 2.—Queen Dowager *v.* L. Ossulston.—Petition of Sir James Butler, Knt., Attorney General to the Most Excellent Princess Catherine, Queen Dowager for and on behalf of her Majesty. Charles II., by Letters Patent, dated 30 June 1665, granted to her Majesty in part of her jointure a fee-farm rent of 118*l.* 5*s.* a year issuing out of Norwich City, whereof her Majesty received 90*l.* in possession, and was entitled to the remainder after the death of Queen Henrietta Maria. In Hilary Term, 35 & 36 Car. II., process was sent out against the City of Norwich for the arrears of the 23*l.* 8*s.* per annum from Queen Henrietta's death. L. Ossulston claiming this as purchased by him in Easter Term, 4 Jac. II., the City of Norwich brought their Bill in the Exchequer against Queen Catherine and L. Ossulston, and offered to pay the rent, or to bring it into Court to be paid to whom the Court should adjudge. In Trinity Term, 1 W. and M., L. Ossulston brought his bill against her Majesty and the City, whereto all the Defendants answered in Michaelmas and Hilary terms following, but (the privilege of Parliament interposing) could stir no further until 27 June 1693, when Petitioner gave rules for dismission of the Plaintiff's Bill with costs for want of prosecution, unless cause that day sennight. On 4 July 1693, on L. Ossulston's motion by the Attorney General, the Bill was retained and the cause ordered to be heard the next term, his Lordship consenting to waive his Privilege. On 16 Nov. 1693, Petitioner gave another rule for dismission, unless cause that day sennight. On 24 Nov. L. Ossulston, by Mr. Johnson

* The blank had been made by striking out the words ("25th day of March"). originally copied in the Draft from the Bill of January 1892-3.

† ("ninety-four") had been originally copied in the Draft.

‡ These words suggest the contents of the Lords' Proviso, of which no Draft exists.

his Counsel, moved for time to reply till the first day of the next term, which the Court granted, and, immediately after, Mr. Johnson acquainted Mr. Hall, Petitioner's Attorney in the Court of Exchequer, that his Lordship would stand upon his Privilege. Forasmuch as Her Majesty has been long delayed in her suit by his Lordship's insisting on his Privilege, and for that, had not his Lordship consented to waive his Privilege, his Bill had been dismissed, Petitioners, having heard that the House has used, where Privilege has been waived, to order that it should not be afterwards insisted on, pray that L. Ossulston may be ordered not to insist upon Privilege, having once waived it. *Signed*, Ja: Butler. [Read this day and Lord Ossulston ordered to answer (L. J., XV. 312.) On 9 Dec. L. Ossulston was heard as to the giving in his Answer this day. He says he did waive his Privilege, but conditionally, and they have not performed their conditions, and therefore he is not bound. Sir James Butler was called in. Then the matter was referred to the Committee for Privileges. (MS. Min.; L. J., XV. 318.) No record of proceedings in Priv. Book.]

761. Dec. 2.—Gardiner's Estate Bill.—Draft of an Act to enable Trustees to raise money to satisfy a mortgage of several lands and tenements in London and Middlesex, made by Sarah, the wife of Joseph Gardiner, before their intermarriage and settlement of the equity of redemption of the premises. Whereas by conveyances, dated 23 and 24 Jan. 1687, certain lands vested in trustees were mortgaged, part in fee simple, and part for a term of years, to Thos. Jekyll, clerk, and Elizabeth Greene, widow, for securing to them 2,900*l.* and interest, the redemption of which mortgage remains to Sarah Gardiner, then Sarah Ridges, spinster, one of the daughters of Wm. Ridges, late of London, Esq., deceased; and whereas by lease and release, dated 11 and 12 March 1691, in consideration of the marriage between Joseph Gardiner and Sarah Ridges, the mortgage and equity of redemption were settled to the use of Thos. Newland and Thos. Marriott, for 99 years, upon trust to be disposed of by Sarah, notwithstanding her coverture, remainder to Joseph Gardiner for life, remainder to Sarah for life, remainder to Newland and Marriott and heirs, in trust for the children of the marriage, in such manner as Sarah should appoint, and, failing such appointment, to the sons in tail male, remainder to the daughters in tail general, as tenants in common, remainder to such persons as Sarah should appoint, and, failing such appointment, to her right heirs with and under divers provisoes; and whereas there is issue of the marriage only one daughter, Mary, an infant about 5 months old, and the mortgaged premises consist of houses, most of which are old and ruinous, which will shortly be insufficient in value, considering the interest and taxes payable, to discharge the mortgage, and the settlement will thus be rendered fruitless, unless trustees be appointed to make absolute sale; the Bill therefore enacts that the premises, situate in the parishes of St. John's, Clerkenwell, and St. Sepulchre's, London, in the occupation of Frances Elliott, Ralph Davies, Wm. Fenton, Mr. Powell, Richard Proctor, Mr. Grimes, John Prescott, Mr. Robins, Wm. Lewis, Wm. Oxley, Edward Stich, Wm. Hale, Benjamin Prescott, Frances Watson, Christopher Vaux, Samuel Markeand, Thos. Webb, Oliver Dalton, Thos. Holmes, and Mr. Robinson; and also a great mansion house, with a garden and two other courts thereto belonging, heretofore occupied by Lionel, late Earl of Middlesex, another house-yard and backyard, heretofore occupied by Col. Billingsley, and another messuage, heretofore occupied by Christopher Walker, Esq., which last

1693. — No. 761. three messuages are situated in or near St. John-street, Clerkenwell; another messuage in St. John-street, heretofore occupied by William Jackson, and another messuage there, heretofore occupied by John Richardson, all which messuages were some time in the several possessions or occupations of John Clerke, Frances Flaxmore, Widow Jesson, James Fletcher, John Maycock, Edmond Spencer, John Woodley, Frances Grubb, Ralph Triplett, Lawrance Coleman. James Ball, Henry Nelson, Wm. Witworth, Joane Fowler, widow, Chistopher Allen, Richard Gay, George Wicks, Wm. Brutes, Thomas Barber, Edward Colles, Elizabeth Woodford, widow, John Middleton, John Day, Mr. Reignolds, and Christopher Bennett, or their under-tenants or assigns, and now or late in the several possessions or occupations of Henry Savage, Dorothy Watson, widow, Roger Thompson, Nathaniel Low, Thos. Cave, George Wicks, Thos. Bullman, Wm. Hutchings, Henry Nelson, Robert Exell, Wm. Wells, Wm. Sharpe, Robert Raymond, Humphrey Swaddle, Thos. Vearman, Edward Reade, Anne Clerke, widow, Hannah Collins, widow, John Simpson, James Fletcher, the Lady Bendish, Robert Rider, Wm. Francklin, Richard Badham, Elizabeth Robins, widow, Wm. Barlow, Richard Jordaine, Widow Swaddle, and Thos. Copeland, their assigns or under-tenants; and also all other the messuages, &c., late of the said William Ridges, situate in or near St. John's Street or St. John's Lane, in the parishes of St. James', Clerkenwell and St. Sepulchre's, heretofore the inheritance of Lionel, late Earl of Middlesex, and purchased by Wm. Ridges of Anne, Countess Dowager of Middlesex and Lionel, Earl of Middlesex, son and heir of the said Earl Lionel, and Nicholas Herman, Esq., and also all other messuages, &c., now erected on the premises, and also all the great messuage or tenement, with the Coach-house and stable, known as the Two Black Griffins, situate in Portugal Row, Lincoln's-Inn-Fields, in the parishes of St. Clement Danes and St. Giles-in-the-Fields, heretofore in the possession or occupation of Sir Hugh Windham, Knt., and now or late in the possession or occupation of Sir Robert Southwell; and also all the messuage or tenement known as the Goat, used for a tavern, situate in Smithfield, in the parish of St. Sepulchre's, now or late in the possession or occupation of Richard Shaw; and also all appurtenances to the before-mentioned messuages, &c.; and also a full moiety of all such messuages, &c., in the parish of St. Sepulchre's, purchased by Wm. Ridges and Beatrix, his wife, of John Briscoe, Gent., and now in the several possessions or occupations of Marmaduke Bell, Richard Allen, Rose Miller, widow, and (*blank*), being the premises mortgaged and settled as aforesaid, shall be freed from all the trusts, &c., mentioned in the grant and release, and vested in Peter Munday, of London, Merchant, William Allen, Citizen and Skinner of London, and Charles Clayton, of St. Andrew's, Holborn, Gent., in trust to make absolute sale of the inheritance, and, out of the money raised by such sale, to discharge the mortgage money and interest, and, in the next place, to pay all charges necessary for rebuilding and repairing any of the premises unsold, and to employ the clear surplus of the money raised in purchasing an estate in fee simple in England, with the approval of Joseph Gardiner and his wife, or the survivor; the lands unsold to remain upon the like trust as is expressed concerning the mortgaged premises.

Provided that, until such purchase can be made, the trustees may invest the surplus as approved by Joseph Gardiner and his wife, paying the interest to such persons to whom the rents of the lands to be purchased would belong in case such purchase were made.

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Provided that the trustees may reimburse themselves the charges of passing this Act and all costs incurred by reason of the trust, and that none shall be answerable for the default of the other, nor for any more moneys than they actually receive by virtue of the trust.

Provided also that the Act shall not impeach the said mortgage to Jekyll and Greene.

Saving to all persons other than Joseph Gardiner, his wife and daughter and all other issue of the marriage, all such rights in the premises as they had at the time of making the Act. [Read 1ª this day. (L. J., XV. 312.) In Committee the following proceedings are recorded:—11 Dec. (L. Stamford in the Chair) Mr. Ridges' Petition* is read, and Ordered to be considered on the 14th inst.—On 14 Dec. (E. Warrington in the Chair) the Parties are called in. Ridges' Petition read. *Sir Bartholomew Shore* (for Petitioners) opens their case. Sarah Gardiner, having a debt of 2,000*l.* upon the estate, preferred a Bill to bar us of the equity of redemption, and obtained a Decree to that effect. The overplus belongs to us after the debt is paid. This Bill takes that from us, and turns the Decree into a Clause to foreclose us. We have purchasers for so great part of the estate as will overpay the Sister. She ought to have but a sixth part of Briscoe's houses, and this Bill gives her a moiety. We pray the overplus after the debt is paid. *Mr. Dormer* (for the Bill): The Petitioners had a liberty of paying off this incumbrance. They had time given by the Decree to pay us. 6,000*l.* was decreed to us. The estate is not worth the debt due to us. We will allow them a saving of their right, if they will appeal. We come only to be relieved against our own voluntary settlement. We desire no confirmation of the Decree. We are content to leave out that part of the Bill that relates to Briscoe's houses. *Sir Bartholomew Shore:* We oppose not the sale of the estate. If they will take the best purchaser and let us have the overplus, we shall be satisfied. *Mr. Dormer:* We shall agree to any Saving that does not give them a new right. We desire no new right. After debate, they are directed to draw a Proviso against the next meeting, whereby the best purchaser shall be taken, and the produce, over and above the debts, legacies and necessary charges, shall be saved to the Petitioners, according to their father's will.—On 18 Dec. (L. Bolton in the Chair) the Committee met only to adjourn to the 21st. Nothing further recorded in Com. Book or L. J.

Annexed:—

(*a*) *Undated.*—Paper stating the case and reasons for the Bill. The latter are as follows: (1) The greatest part of the houses are very old, and some must be rebuilt, which the husband and wife cannot do, having but an estate for life; (2) The repairs and taxes, with the interest of the 2,900*l.*, take up near the yearly profits. Therefore, to prevent the estate being swallowed up by the mortgage, this Act is prayed, that they may sell so much as will pay off the mortgage, and the remainder of the estate to be and remain to the uses in the settlement.

(*b*) 8 Dec. 1693.—Petition of John, Joseph, James and Charles Ridges, sons of William Ridges of London, Esq., deceased. The houses mentioned in the Bill were the inheritance of Petitioners' father, and the Bill, if passed, will greatly prejudice Petitioners. Pray to be heard by Counsel against it, before it is reported. *Signed* by John, James, and Charles. L. J., XV. 317.

* Annex (*b*).

1693. — No. 762.

762. Dec. 4.—Skipwith *v.* Wade.—Copy Transcript of Record, with Tenor of Judgment (L. J., XV. 313, *in extenso*) affixed thereto. Charles Wade having brought an action against Thomas Skipwith, Esq., in the Court of King's Bench, for ejecting him from two messuages, a garden and an acre of land in St. James' parish, Westminster, which he held from one Edward Heton, and also from like property in the same parish which he held from Edward, Viscount Villiers and Barbara, his wife, obtained a verdict and judgment on the first ejectment, which was affirmed in the Exchequer Chamber. Plaintiff now appeals from this affirmance. [The Cause was heard this day.* *Mr. Baker* (for Plaintiff) opens the case. The Plaintiff does not think fit to give any further trouble, for he had an interest when the writ was brought, but now the lease is expired. *Mr. Simpson Ward* prays costs and an affirmation. Judgment affirmed with 10*l.* costs. (MS. Min.; L. J., XV. 313.)]

Annexed :—

(*a*) 25 Nov. 1693.—Petition of Charles Wade. Skipwith brought his writ of error in February last† for delay, and has now assigned errors, and issue is joined thereupon by Petitioner. Prays for a short day for hearing. L. J., XV. 306.

763. Dec. 7.—Skinner *v.* East India Company.‡—Petition and Appeal of Thomas Skinner, Merchant. Petitioner in 1657 (trade to the East Indies being then open and free) contracted with several members of the then Old Company for delivery of pepper, and having sailed from London in the ship *Thomas* of Dover, arrived in 1658 at Jamby, and purchased from the King there the islands of Barella, where he established a pepper plantation. He had on board a cargo of the value of above 9,000 ryals of eight, which, after certain intended transactions and investments at Macassar and Macao, would have produced, on his return, a total gain on the adventure of 44,437*l.* 10*s.* In 1659, the then Company having procured a Patent from Oliver Cromwell, which contained a Clause, that they should admit any person to trade to the East Indies on payment of 5*s.*, the ships *Dragon* and *Advice* arrived at Bantam, from whence the *Dragon* in the same year came to Jamby, with instructions from Maurice Thomson, then Governor of the Company, Thomas Andrews, Deputy Governor, Sir Andrew Riccard and other members of the Company, to their new agents, John Edwards Robert Street, Henry Page, and William Mainstone, to seize any English ships trading within their agency : Street and Thomas Lever, the Company's agents, seized accordingly 1,521 ryals due to Petitioner, as well as his ship, warehouse, goods and jewels, and also the islands of Barella, and ordered him to leave within 30 days for England, without informing him of the said Clause in the Charter, with which he would willingly have complied, had he known of it. Petitioner offered bail, in order that the ship might proceed on her voyage ; this was refused, and on his return to London in 1661, having applied in vain to the Company for satisfaction, he petitioned Charles II., who twice referred the matter to L. Roberts, then Lord Privy Seal, and others, the second time with instructions to have the amount of damages ascertained by the Judge of the Admiralty. Dr. Exton, the Judge, after hearing the parties on 18 Sept. 1662, made his report to the Lords Referees,

* There is no entry in L. J. of the Writ of Error being brought in.

† No entry in MS. Min. of this month.

‡ For previous proceedings in this Cause, *see* Calendar, 8th Report, No. 66, and Howell's State Trials, VI., pp. 710-70.

1693. — No. 763.

but the Company refused to submit their case to them any further, and petitioned the King to be dismissed. The King, by Order of 22 Aug. 1663, directed the Lords Referees to report to the Lords of the Council, and on 23 March 1665 referred the matter again to the L. Chancellor Clarendon, the L. Archbishop of Canterbury, L. Roberts and L. Shaftesbury, who reported that Petitioner had been wronged, and that the Company refused to make satisfaction. Thereupon in Dec. 1666, the King referred the complaint to the House of Lords, and a Committee of 33 Peers declared, in April 1668, that Respondents ought to pay Petitioner 28,521*l.* 14*s.* 8*d.*, as appears from the Minute books of the Committee,* this being at a less rate than the payment made by the Company in 1659 to Sir John Delhick, Sir John Bancks and others, for their private pepper seized by the Dutch; whereas in 1665–7 the Company cleared on pepper above 26*s.* per ryal. The Committee being ready to report, the Company petitioned the House of Commons, objecting to the Lords' jurisdiction, and a

* The proceedings of this Committee, which was appointed on 12 March 1667–8 (MS. Mln.), are recorded in Com. Book as follows:—

17 March 1667-8. L. Privy Seal in the Chair.—The Certificate of John Prestwood to the King is read. *The Company* being asked why no umpire was chosen, say that they offered it, but Skinner refused. They acknowledge that goods were seized in the ship, but as Frederick Skinner's. The Company's Proposals to the Lords Referees, amounting in the whole to 1500*l.*, are read; to which they say that, if the Lords please to conclude on that sum, they submit, but, if they proceed judicially, they own no debt due to him. *Mr. Skinner* reads the computation of his damages, according to Mr. Buckworth' certificate; to which *Mr. Prestwood* makes particular answers. Mr. Buckworth, who was Skinner's referee, is absent. *Mr. Ayliffe* gives an account of a Report he made upon a reference to him upon the business of Mr. Prestwood's and Mr. Buckworth's certificates, which is read and disowned that ever they heard of it before. *Moved*, that a short day be given to Mr. Buckworth to attend. They all withdraw. *Ordered*, that on the 30th inst. Mr. Buckworth and Mr. Prestwood attend the Committee and that Thomas Skinner and the Company may bring each side one Counsel.

30 March. E. Northampton in the Chair. Mr. Buckworth's Report to the Council Table is read. Mr. Prestwood's Report is read. *Mr. Buckworth*, being asked what Mr. Skinner carried out in his ship, says that he does not know, but believes he would not go to the Indies without carrying some goods. *Mr. Allen* alleges the ship, with her rigging, tackle, furniture, provisions, and ammunition, was worth £2,500 in the Indies, where she was seized. 128 peculls of pepper worth 1,280 ryals of eight; 24 peculls of nutmegs, ordnances, swords, &c., case of pictures, looking-glasses, chest of clothes, worth 4,322 ryals; and 8 barrels of powder and 2 coils of ropes, 80 ryals. Total, 5,487 (*sic*) ryals. Charge at Jamby. Charge in coming home (being 19 months), 125 lattees of amber, at 14 ryals the lattee, 1,834 ryals. Owing by Tho. Lever, Agent to the Company, 1,521 ryals. Damages in being hindered in his intended voyage to Macassar, 20,000 ryals. The loss of his islands. Dollars valued at 4*s.* 6*d.* apiece.

7 April. E. Northampton in the Chair. *Mr. Solicitor:* Fred. Skinner values the ship at 2,000 ryals by letter. *Capt. Swanley:* In that part of India, ships will yield very little, because they know not the use of shipping. In other parts of India they will give a good value. Prays a respite of the valuation of the ship till Curtis etc. be sworn. The seizure made by the King of Jamby by the Justice of the place upon Capt. Alnott's demand. As to the second particular, William's Proof is upon information. Pepper and nutmegs coming to their hands, amounting to 1,454 ryals. They own to have taken it as Frederick's goods, indebted to them. As to Lever's debt of 150 ryals, muskets, arrack, and (*illegible*), 43 ryals. They are content to allow of what is charged, so they be freed from Lever's administrators. For hindering his voyage to Macassar. Mr. Willoughby and Mr. Dacres prove pepper cheaper at Macassar than at Jamby, and so no voyage hopeful. The ship was disabled for making a voyage to Macassar. As to the island, it is impossible for him (had he not been disturbed) to have enjoyed it, without destroying the Charter of the East India Company. No man can trade with infidels without license, 1 Jac. *Question:* Whether Mr. Skinner shall have damages for the seizing of his ship by the E. India Company? *Previous*

1693. — No. 763. difference arising between the two Houses thereupon, Petitioner was forced to surcease further proceedings, the King promising that the Company should make him satisfaction. Petitioner having not obtained, nor having any prospect of obtaining any redress by fair means, as appears by their Resolution declared by Sir Josiah Child in 1686 and 1687, brought a Bill in the Exchequer against the Company in 1690. Respondents, in their Answer, objected to the jurisdiction of the Court, and pleaded the Statute of Limitations, disclaiming further any liability, on the ground that Charles II., by Letters Patent of 13 April in the 13th year of his reign, incorporated them as a new Company, with the sole liberty of trading to and from the East Indies, and all other parts beyond the Cape of Good Hope to the Straits of Magellan. After some proceedings respecting the settlement of a case, in regard to which the parties could not agree, the Court, on 19 June 1693, refused to admit as evidence the examinations taken before Dr. Exton, by direction of the King, and the attestation of the town seal of Jamby,

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Question: Whether the above Question shall be put? Resolved in the *Affirmative.* Contents, 8; Not-contents, 3. *Main Question* put, *ut supra,* and Resolved in the Affirmative. Contents, 8; Not-contents, 2. The Arbitrator's Report to be brought for perusal by the Committee.

11 April. E. Northampton in the Chair. The ship valued by both the Arbitrators at 8,000 ryals. *Question:* Whether Mr. Skinner shall have for his damages for ship and tackle £2,500. Contents, 7; Not-contents, 3. *Question:* Whether the goods of Thomas Skinner in the ship were seized by the order of the E. India Company? Resolved in the *Affirmative.* Contents, 6; Not-contents, 4. *Question:* Whether the damages that the E. India Company are to give Mr. Skinner shall be 10,360 ryals for the first-mentioned goods? Resolved in the *Affirmative.* Contents, 7; Not-contents, 3. *Question:* Whether the damages for pepper, nutmegs, &c., shall be 3,355 ryals? Resolved in the *Affirmative.* Contents, 7; Not-contents, 3. *Question:* Whether the debt of 1,521 ryals belonging to Lever shall be paid to Thomas Skinner, the Company having a legal release for the same? *Agreed.* Debate of what remains to be respited, till the 13th.

13 April. E. Northampton in the Chair. The valuation of the ryal postponed till the E. India books be seen. *Question:* Whether £300 shall be allotted for compensation for his journey home by land? Resolved in the *Affirmative.* Contents, 7; Not-content, 1. *Question:* Whether Mr. Skinner ought to have reparation for the damages he has sustained for his being dispossessed of his islands? Resolved in the *Affirmative.* Contents, 7; Not-content, 1. Valuation of the island adjourned till the 16th. *Ordered,* that the Secretary of the Company bring the Company's books on the 16th, to inform the Committee what was the common price of pepper in the City of London in the year when Mr. Skinner was despoiled of his ship and goods in the E. Indies by the Company.

16 April. E. Dorset in the Chair. Adjourned to the 18th.

18 April. E. Northampton in the Chair. The Company's books are produced, by which it appears that pepper sold at 1*d.* *q.*¾ in 1659 cost 3*d.* In 1660 Malabar pepper cost thereabout, and sold in April at 11¾*d.* and in October 10¾*d.* In October 1661 it sold at 10¼*d.* Insurance from Jamby will cost 6 per cent. In 1656 Capt. Curtis paid to Frederick Skinner for pepper at Bantam 4*d.* *q.*¼. Freight of pepper, 2*d.* ol: . Customs 1*d.* 5 lb. in the hundred breakage. *Mr. Sheldon* says the Company buys cheaper than a private man by 20 per cent. They give 5 per cent. for a present to the King. *Question:* Whether a difference shall be put between a single ship and the Company? *Agreed.* *Question:* Whether 8 per cent. shall be allowed for insurance? Resolved in the *Affirmative.* Contents, 6; Not-contents, 2. *Question:* Whether the ryal shall be valued at 5*s.*? Resolved in the *Affirmative.* Contents, 5; Not-contents, 3. *Question:* Whether £500 shall be allowed him for his being put out of the island? Resolved in the *Affirmative.* Contents, 5; Not-contents, 2. *Question:* Whether Mr. Skinner shall have £9,884 7*s.* 2*d.*, with interest for it from the time of taking away his goods at Jamby? Resolved in the *Affirmative.* Contents, 5; Not-contents, 2.

20 April. E. Northampton in the Chair. After a long and serious debate of the value of the island, and De Brier's and Grimston's Affidavits read, *Question* put: Whether £10,000 damages shall be given Mr. Thos. Skinner for being thus long kept out of his island? Resolved in the *Affirmative.* Contents, 6; Not-Contents, 4. *Question:* Whether Report shall be made to the House of the damages above mentioned? Resolved in the *Affirmative.* Contents, 6; Not-contents, 2.

1693. — No. 763.

and the extracts from the Company's books, and dismissed Petitioner's Bill. Appeals from this dismission. *Signed* Tho: Skynner. *Countersigned*: Fran Browne, Lewis Owen, who certify that Petitioner has good cause to Appeal. [Read this day and referred to a Select Committee (L. J., XV. 316). The Committee was revived on 13 Dec. (MS. Min. No entry in L. J.), and again on 2 Jan. 1693–4, when they were ordered to meet on the 4th (MS. Min.; L. J., XV., 331); but no record is found of any proceedings.]

Annexed:—

(*a*) 13 Dec. 1693.—Extract from Rolls of Parliament, 14 Edw. III., No. 31, Pars secunda. Begins "La tenur de la Petition Monsr Geffrey de Staunton." Ends "et de nre regne de France primier." Convenit cum Recordo. Wi: Petyt. 13 Dec. 1693. Ex: per Dudleium Downes. The contents are printed *in extenso* in Rolls of Parlt., Vol. II., pp. 122–5. *Endorsed* are some rough notes in a different hand as follows:—

9 E. 2. No. 1. Chancellor and Justices enjoined to bear the matters into Parliament.

14 E. 3. ch: 5. A Committee to inspect the Courts of Westr. and the Justice don.

Bracton, Li. 2. ch. 16. "In dubiis et obscuris, vel si aliqua dictio duos contineat intellectus, domini regis erit expectanda interpretatio et voluntas."

Bracton, Li. 1. C. 2. "Si autem talia nunquam prius evenerint, et obscurum et difficile sit eorum judicium, tunc ponantur judicia in respectum usque ad magnam curiam, ut ibi per consilium curiæ terminentur."

1 Rol: Parl: 2 N. 95. The Commons pray for a law for annual Parliaments, that matters wherein the Justices differ in opinion, or delay may be brought into Parliament. Res: As to the delays, there are other Statutes. [*See* Rolls of Parlt., III., p. 23.]

1693. — No. 764.

764. DEC. 11.—ACCOUNTS COMMISSIONERS.—Vellum Bound Book, Revenue between the Feast of St. Michael 1692, and the Feast of

The GENERAL ACCOUNT for the Year 1693.

	£ s. d.	£ s. d.	£ s. d.
Remains of Cash at Michaelmas 1692, viz. :—			
At the Exchequer	—	191,864 5 8	
At the Custom House	—	9,322 17 10	
At the Excise Office	—	24,191 6 10½	
At the Post Office	—	1,167 2 5	
Charged to the Exchequer to Michaelmas 1692, but not allowed there till the week after, viz. :—		226,545 12 9½	
At the Custom House for Customs	—	20,051 8 2½	
For New Impositions	—	23,813 16 4	
			270,413 17 3½
The Receipts within the time of this Account were—			
On Customs as in page 15	—	476,677 15 2½	
On New Impositions as in page 21, viz. :—			
East India Goods	145,818 16 7½		
Wine and Vinegar	146,564 3 11½		
Tobacco and Sugar	86,397 12 5½		
		378,780 13 0½	
Additional Impositions as in page 21	—	13,296 7 2½	
Old Excise, page 23	—	417,652 11 0½	
Low Wines, page 23	—	15,646 9 0½	
Two Nine pences, page 23	—	280,350 3 11½	
At the Post Office, page 27	—	86,444 4 6	
Small Branches, pages 7 & 9	—	54,520 8 10	
		1,723,398 12 6½	
Arrears of double Excise, page 23	—	156,620 8 10	
		1,880,019 1 4½	
Arrears of Taxes, as by Particulars, pages 11 & 13.	1,175,850 16 8		
The Taxes of Last Sessions (over and above 1,010,000*l.* by way of Loan) on the continued and additional Impositions and contained in the Account of Loans, page 1, viz. :—			
On Survivorship and Annuities, page 9.	881,493 14 2		
Four Shilling Aid, page 13	864,700 4 3		
Joint Stocks, page 13	21,609 10 0		
Review of the Quarterly Poll, page 13.	3,314 4 2		
	1,771,117 12 7	2,946,968 9 3	
		4,826,987 10 7½	
By the Account of Loans for more received than paid in satisfaction thereof, as appears by the Exchequer Certificates in page 2.	911,334 9 5½		
To which add such sums as were unpaid at Michaelmas 1693, though charged to be paid in the said certificates, viz. :—			
At the Excise Office	85,422 19 5		
At the Custom House	30,000 0 0		
At the Post Office	32,702 5 0		
	148,125 4 5	1,059,459 13 10½	
		5,886,447 4 6½	
Of Mr. Ryley, paid by him to the Treasurer of The Ordnance.	1,000 0 0		
Mr. Guy	2,500 0 0		
Mr. Osborne, Free Gift	500 0 0		
	4,000 0 0		
Arrears of Hearth Money p[illegible] the Band of Pensioners.	75 0		
Interest	195 1 0		
Mr. Fox	800 0 0		
	1,745 1 0	5,745 1 0	
			5,892,192 5 6½
Transported	—	—	6,162,608 2 10

entitled, The General State of Receipts and Issues of the Public St. Michael 1693.

The GENERAL ACCOUNT for the Year 1693.

Payments to :—	£	s.	d.	£	s.	d.	£	s.	d.
The Right Hon. Edward Russell, Esq., for the current service of the Navy, page 4.	1,839,627	18	5						
More out of ½ additional Excise, for building 27 ships.	85,700	0	0						
				1,925,327	18	5			
To the Hon. Charles Bertie, Esq., for the current service of the Ordnance.	367,008	19	11½						
More out of ½ additional Excise, on account of the 27 ships.	12,400	0	0						
More by Mr. Riley	1,000	0	0						
				380,408	19	11½			
To the Right Hon. Richard Earl of Ranelagh, for the Army, page 4.	1,953,495	18	7						
To Chas: Fox, Esq., and Lord Coningesby, for the same, page 4.	392,052	8	0½						
More out of the arrears of Hearth Money.	800	0	0						
	392,852	8	0½						
				2,346,348	6	7½			
							4,652,085	5	0½
For the Charge of the Civil Government, viz. :—									
To Her Majesty's Treasurers, page 4	—			52,000	0	0			
The Privy Purse, page 4	—			22,500	0	0			
Secret Service—									
At the Exchequer, page 4	57,509	5	8½						
At the Post Office, page 30	1,000	0	0						
By Mr. Ryley to Mr. Guy	2,500	0	0						
				61,009	5	8½			
Jewels and Plate, page 6	—			3,880	1	2			
Gardens, page 6	—			12,007	5	0			
Works, including 2,400*l.* on last year's Tallys, page 6.	—			106,751	5	3½			
Ambassadors, Envoys and Consuls—									
At the Exchequer, page 6	40,284	14	9½						
At the Custom House, page 18	1,208	10	7						
				41,493	5	4½			
Band of Pensioners at the Exchequer, page 6.	4,500	0	0						
More out of arrears of Hearth Money	750	0	0						
				5,250	0	0			
Cofferer, page 6	—			100,236	9	0			
Treasurer of the Chamber, page 6	—			41,373	0	5½			
Master of the Great Wardrobe, page 6	—			17,320	4	9			
Master of the Horse—									
At the Exchequer, page 6	11,324	11	0						
At the Custom House, page 20	1,317	8	6						
				12,641	19	6			
Free Gifts—									
At the Exchequer, page 8	35,548	1	3½						
By Mr. Ryley	500	0	0						
				36,048	1	3½			
Pensions—									
At the Exchequer, page 8	65,379	14	11½						
At the Custom House, pages 16 and 18	1,759	7	0						
Prince of Denmark and Bailiffs of Yarmouth at Excise Office, pages 24 and 26.	49,660	0	0						
At the Post Office, page 28	8,325	0	0						
				125,124	1	11½			
Salaries—									
At the Exchequer, page 8	67,408	9	8½						
At the Custom House, page 18	3,605	15	9½						
				71,014	5	6			
Stationery Wares, page 10	—			11 864	9	7			
Rent paid, page 8	—			200	0	0			
Reward for Services, page 8	—			5,555	0	3½			
Law Suits, page 6	—			3,700	0	0			
Reward to Receivers, page 8	—			9,662	3	0			
Soliciting Taxes, page 8	—			200	0	0			
Surplus of Accounts, page 8	—			2,766	6	11½			
Apprehending Highwaymen, page 8	—			1,013	19	11			
							743,761	5	1½
Transported	—			—					

1693. ACCOUNTS COMMISSIONERS.

No. 764.

The GENERAL ACCOUNT for the Year 1693—*cont.*

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	—			—			6,162,606	2	10
From whence deduct for Salaries and Incidents the Excise Office, page 26.	—			24,518	8	4			
Debentures, Tidesmen, Salaries and Incidents at the Custom House, page 16.	—			170,588	18	0½			
Allowances on Wine and Vinegar, page 22	9,788	18	6						
Debentures and Allowances on Tobacco and Sugar.	10,721	19	9½						
Allowances on Additional Imposition	2	16	3						
				20,513	14	6½			
Salaries and Incidents at the Post Office, page 30.	10,118	3	0						
Charge of packet boats - - -	12,808	14	1						
				22,926	17	1			
							238,547	18	0
							5,924,058	4	10
Upon the single 9*d.* for 99 years - - -	—			—			59,078	15	10½
							5,983,137	0	8½
Received into the Exchequer from Mr. Kent's Executors, an arrear in his hand.	—			657	18	1			
Over allowed in the Exchequer Certificates in 58 Articles, ½*d.* each.	—			0	1	2½			
Allowed in the Exchequer Certificates for Potashes not yet charged at the Custom House.	—			2,500	0	0			
				3,157	19	3½			
From which deduct an overcharge in the last year's Account of Customs.	100	0	0						
And what is charged more on ¼ Customs than the Exchequer Certificates yet allow.	500	0	0						
				600	0	0			
							2,557	19	3½
							5,985,695	0	0

Page. 1.

The GENERAL ACCOUNT of MONEY borrowed on LOANS from 28 Sept. 1692 to 28 Sept. 1693, viz. :—

Borrowed on—	£	s.	d.	£	s.	d.
The Quarterly Poll :—						
From 28 Sept. to 30 Dec. 1692 - - - - - -	—			570,103	4	5½
¾ *Customs* :—						
From 28 Sept. to 30 Dec. 1692 - - - - - -	41,769	5	6			
To 31 March 1693 - - - - - - - - -	100,145	4	10½			
To 30 June - - - - - - - - - -	367,278	4	8			
To 28 Sept. - - - - - - - - - -	16,675	1	3½			
				525,867	16	4
East India Goods :—						
From 28 Sept. to 30 Dec. 1692 - - - - -	109,339	11	11½			
To 31 March 1693 - - - - - - - - -	23,483	16	1			
				138,823	8	0½
Continued Acts and Joint Stocks :—						
From 30 Dec. 1692 to 31 March 1693 - - - - -	6,307	8	8			
To 30 June 1693 - - - - - - - - -	492,619	3	5			
				498,926	12	1
Additional Impositions :—						
From 30 Dec. 1692 to 31 March 1693 - - - - -	178,415	12	6			
To 30 June - - - - - - - - - -	331,584	7	6			
				510,000	0	0
Hereditary and Temporary Excise :—						
From 28 Sept. to 30 Dec. 1692 - - - - - -	41,000	0	0			
To 31 March 1693 - - - - - - - - -	27,500	0	0			
To 30 June - - - - - - - - - -	44,115	5	8			
To 28 Sept. - - - - - - - - - -	70,052	13	9			
				182,667	19	5
4*s. Aid* :—						
From 30 Dec. 1692 to 31 March 1693 - - - - -	677,472	8	8			
To 30 June - - - - - - - - - -	402,435	12	10½			
To 28 Sept. - - - - - - - - - -	39,061	5	5			
				1,118,969	6	11½
Million Act :—						
From 31 March to 30 June 1693 - - - - - -	412,950	0	0			
To 28 Sept. - - - - - - - - - -	115,825	0	0			
				528,775	0	0
Exchequer in General :—						
From 28 Sept. to 30 Dec. 1692 - - - - - -	—			49,100	0	0
Review of the Quarterly Poll :—						
From 30 June to 28 Sept. 1693 - - - - - -	—			190,410	0	0
Transported -	—			4,307,643	7	3½

General State of Receipts and Issues, &c

1693.

No. 764

The GENERAL ACCOUNT for the Year 1693—*cont.*

	£ s. d.	£ s. d.	£ s. d.
Transported -	—	—	
For the Charge, &c. transported			
To the Mint, page 6 - - - - - -	—	5,137 10 0	
For Redemption of Captives, page 8 - -	—	958 12 4	
Their Majesties share of Condemned Tobacco Stalks, page 8.	—	47 17 5½	6,143 19 9½
Interest paid—			
At the Exchequer, page 10 - - -	—	208,299 12 5	
At the Custom House, page 20 - - -	—	5,876 19 0½	
At the Excise Office, page 26 - - -	—	5,949 12 6½	
Out of Arrears of Hearth Money - -	—	195 1 0	220,321 4 11½
			5,622,311 14 11
Loans at the Excise Office on last year's Tallys.	—	99,500 0 0	
Pensions paid at the said Office on last year's Tallys.	—	1,250 0 0	100,750 0 0
			5,723,061 14 11
Cash remaining at Michaelmas 1693—			
At the Exchequer, page 14 - - - -	231,795 19 4½		
At the Custom House, page 20 - - -	1,275 10 11		
At the Excise Office, page 26 - - -	16,982 15 0½		
At the Post Office, page 30 - - - -	732 12 8		
		250,786 17 11½	
More charged at the Exchequer which is not there allowed till the week after Michaelmas 1693, viz :—			
At the Custom House for Customs - -	5,049 4 3		
New Impositions - - - - -	4,646 8 5½		
At the Excise Office - - - - -	2,150 14 4½		
		11,846 7 1½	
			262,633 5 1
			5,985,695 0 0

Page 2.

The GENERAL ACCOUNT of REPAYMENT of LOANS with Interest, from 28 Sept. 1692 to 28 Sept. 1693, viz. :—

Paid in satisfaction of Loans on the several Funds undernamed, viz. :—	Principal. £ s. d.	Total. £ s. d.	Interest. £ s. d.
Second 12 Months' Aid :—			
From 28 Sept. 1692 to 30 Dec. 1692 - -	363,394 12 5	—	13,792 7 3
To 31 March 1693 - - - - - -	419,982 6 4	—	17,039 4 11
To 30 June - - - - - - -	51,580 0 0	—	2,515 5 10
To 28 Sept. - - - - - - -	17,130 0 0	—	1,089 12 3
		852,086 18 9	
¾ *Customs :—*			
From 28 Sept. to 30 Dec. 1692 - - -	96,555 1 0	—	3,295 4 10
To 31 March 1693 - - - - - -	42,545 0 7	—	3,080 8 10
To 30 June - - - - - - -	50,676 19 6½	—	4,690 3 11
To 28 Sept. - - - - - - -	68,391 19 6	—	4,968 9 4
		258,169 0 7½	
¼ *Customs :—*			
From 28 Dec. to 30 Dec. 1692 - - -	—	30,000 0 0	—
East India Goods :—			
From 28 Sept. to 30 Dec. 1692 - - -	52,032 10 0	—	5,224 4 0
To 31 March 1693 - - - - - -	24,340 0 0	—	3,359 2 0
To 30 June - - - - - - -	21,895 7 0	—	7,622 16 2
To 28 Sept. - - - - - - -	27,442 0 0	—	5,759 6 7
		125,679 17 0	
Continued Impositions :—			
From 28 Sept. to 30 Dec. 1692 - - -	63,938 10 11½	—	8,530 17 7
To 31 March 1693 - - - - - -	37,294 2 1½	—	4,388 15 10
To 30 June - - - - - - -	36,500 0 0	—	5,362 2 10
To 28 Sept. - - - - - - -	66,524 0 0	—	4,175 1 10
		204,256 13 1	

1693. ACCOUNT COMMISSIONERS.

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The GENERAL ACCOUNT of MONEY borrowed on LOANS, &c.—*continued.*

	£	s.	d.	£	s.	d.
Transported -	—			4,307,643	7	3½

General State of Receipts and Issues, &c.

1693.

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The GENERAL ACCOUNT of REPAYMENT of LOANS, &c.—*continued.*

	Principal. £ s. d.	Total. £ s. d.	Interest. £ s. d.
Hereditary and Temporary Excise:—			
From 28 Sept. to 30 Dec. 1692	41,000 0 0		
To 31 March 1693	45,000 0 0		
To 30 June	42,820 0 0		
To 28 Sept.	54,047 19 5		
		162,867 19 5	
¾ *Additional Excise:*—			
From 28 Sept. to 30 Dec. 1692	43,439 11 3	—	15,610 17 1
To 31 March 1693	39,000 0 0	—	11,758 7 11
To 30 June	27,000 0 0	—	14,193 13 1
To 28 Sept.	32,062 0 0	—	11,855 11 4
		141,501 11 3	
First 12 Months' Aid:—			
From 28 Sept. to 30 Dec. 1692	—	79 2 6	3 8 2
Million Act:—			
From 31 March 1693 to 30 June 1693	208,400 0 0	—	830 1 11
To 28 Sept.	227,450 0 0	—	3,541 14 10
		435,850 0 0	
Quarterly Poll, viz.:—			
Second Quarter:—			
From 28 Sept. to 30 Dec. 1692 36,908 8 7			15 19
To 31 March 1693 11,271 13 4			
To 30 June 1,300 0 0			21 3
	49,480 1 11		
Third Quarter:—			
From 28 Sept. to 30 Dec. 1692 93,462 0 0	—	—	3,136 10 9 ‡ Customs.
To 31 March 1693 34,119 3 2	—	—	4,938 12 0
To 30 June 18,080 16 10	—	—	3,361 1 10
To 28 Sept. 5,300 0 0	—	—	498 7 9
	150,962 0 0		
Fourth Quarter:—			
From 30 Dec. 1692 to 31 March 1693 89,575 0 0		—	150 0 0
To 30 June 58,489 6 5			
	148,064 6 5		
		348,506 8 4	
4s. Aid:—			
From 30 Dec. 1692 to 31 March 1693	12,150 0 0	—	504 4 9
To 30 June 1693	360,063 14 0	—	17,463 5 7
To 28 Sept.	415,997 12 10½	—	22,932 17 2
		788,211 6 10½	
Additional Impositions:—			
From 31 March to 30 June 1693	—	—	394 0 0
To 28 Sept.	—	—	1,287 0 0
Continued Acts and Joint Stocks:—			
From 30 June to 28 Sept. 1693	—	—	554 0 0
Annuities of 14 per Cent.:—			
From 30 June to 28 Sept. 1693	—	—	5 0 0
Exchequer in General:—			
From 30 Dec. 1692 to 31 March 1693	—	49,100 0 0	350 11 5
		3,396,308 17 10	208,299 12 5
So borrowed this year more than repaid	—	911,334 9 5½	
		4,307,643 7 3½	

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ACCOUNTS COMMISSIONERS.

Page 3.

An ACCOUNT of so much of the NEAT PRODUCE of the REVENUE and TAXES, as was brought into the Exchequer, from 28 Sept. 1692 to 28 Sept. 1693.

	£ s. d.	£ s. d.	£ s. d.
Remaining in cash the 28 Sept. 1692 - -	—	—	191,864 5 8
Received more of the following branches, viz.:—			
½ *Customs*:—			
From 28 Sept. to 30 Dec. 1692 - - -	45,154 13 4		
To 31 March 1693 - - - - -	7,500 0 0		
To 30 June - - - - - - -	7,512 11 2		
To 28 Sept. - - - - - - - -	2,250 7 10		
		62,417 12 4	
¾ *Customs*:—			
From 28 Sept. to 30 Dec. 1692 - - -	98,152 6 3½		
To 31 March 1693 - - - - -	41,984 16 4½		
To 30 June - - - - - - -	53,027 16 0		
To 28 Sept. - - - - - - - -	75,473 6 9		
		268,638 5 5	
Coinage:—			
From 28 Sept. to 30 Dec. 1692 - - -	700 0 0		
From 31 March to 30 June 1693 - -	1,000 0 0		
To 28 Sept. - - - - - - - -	500 0 0		
		2,200 0 0	
4½ *per Cent*:—			
From 30 Dec. 1692 to 31 March 1693 - -	—	657 18 1	
Pot Ashes:—			
From 30 Dec. 1692 to 31 March 1693 - -	2,000 0 0		
From 30 June to 28 Sept. - - - -	500 0 0		
		2,500 0 0	
Coffee and Tea:—			
From 30 June to 28 Sept. 1693 - - -	—	11,517 10 0	
			347,931 5 10
NEW IMPOSITIONS, VIZ., ON:—			
East India Goods:—			
From 28 Sept. to 30 Dec. 1692 - - -	65,541 13 8½		
To 31 March 1693 - - - - -	18,507 1 8		
To 30 June - - - - - - -	28,949 1 8		
To 28 Sept. - - - - - - - -	35,623 13 1		
		148,621 10 1½	
Wine and Vinegar:—			
From 28 Sept. to 30 Dec. 1692 - - -	14,429 17 8½		
To 31 March 1693 - - - - -	22,817 1 9		
To 30 June - - - - - - -	37,859 2 3		
To 28 Sept. - - - - - - - -	61,217 13 2		
		136,323 14 10½	
Tobacco and Sugar:—			
From 28 Sept. to 30 Dec. 1692 - - -	68,067 13 0		
To 31 March 1693 - - - - -	8,560 3 1½		
To 30 June - - - - - - -	7,241 18 11		
To 28 Sept. - - - - - - - -	8,648 9 4½		
		92,518 4 5	
Additional Impositions:			
From 31 March to 30 June 1693 - - -	5,211 17 7½		
To 28 Sept. - - - - - - - -	8,055 7 2		
		13,267 4 9½	
			390,730 14 2½
Transported -	—	—	930,526 5 8½

General State of Receipts and Issues, &c.

1693.

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No. 764.

An ACCOUNT of what hath been issued out of the EXCHEQUER between 28 Sept. 1692 and 28 Sept. 1693, except the issues in satisfaction of LOANS, which appear by a distinct account thereof.

Paid to the several persons following, viz.:—	£ s. d.	£ s. d.	£ s. d.
The Right Hon. Edward Russell, Esq., Treasurer for the Navy:—			
From 28 Sept. to 30 Dec. 1692	249,934 7 1½		
To 31 March 1693	382,578 0 6		
To 30 June	1,310,110 10 9½		
To 28 Sept.	82,705 0 0		
		1,925,327 18 5	
The Hon. Charles Bertie, Esq., Treasurer to the Ordnance:—			
From 28 Sept. to 30 Dec. 1692	89,050 0 0		
To 31 March 1693	82,400 0 0		
To 30 June	191,808 19 11½		
To 28 Sept.	66,650 0 0		
		379,408 19 11½	
The Right Hon. Earl of Ranelagh, for the Army:—			
From 28 Sept. to 30 Dec. 1692	433,203 16 6½		
To 31 March 1693	563,731 6 11½		
To 30 June	671,195 16 6½		
To 28 Sept.	285,364 18 7		
	1,953,495 18 7		
Mr. Fox and Lord Coningesby, for the Irish Army:—			
From 28 Sept. to 30 Dec. 1692	111,587 6 7½		
To 31 March 1693	36,113 0 9		
To 30 June	225,068 14 4½		
To 28 Sept.	19,283 6 3½		
	392,052 8 0½		
		2,345,548 6 7½	4,650,285 5 0½
FOR THE CHARGE OF THE CIVIL GOVERNMENT, VIZ.:—			
To the Right Hon. Earl of Bellemont, Treasurer to Her Majesty:—			
From 28 Sept. to 30 Dec. 1692	13,000 0 0		
To 31 March 1693	12,000 0 0		
Edward Nicholas, Esq., Treasurer to Her Majesty:—			
From 31 March to 30 June 1693	14,000 0 0		
To 28 Sept.	13,000 0 0		
	27,000 0 0		
		52,000 0 0	
PRIVY PURSE:—			
From 28 Sept. to 30 Dec. 1692	13,500 0 0		
To 31 March 1693	3,000 0 0		
To 30 June	4,000 0 0		
To 28 Sept.	2,000 0 0		
		22,500 0 0	
SECRET SERVICE:—			
To Henry Guy, Esq.:—			
From 28 Sept. to 30 Dec. 1692	11,553 14 9		
To 31 March 1693	16,697 19 3		
To 30 June	18,991 3 10½		
To 28 Sept.	6,216 7 10		
	53,459 5 8½		
To the Earl of Nottingham:—			
From 28 Sept. to 30 Dec. 1692	2,000 0 0		
To 31 March 1693	1,050 0 0		
	3,050 0 0		
To Sir John Trenchard:—			
From 31 March to 30 June 1693	1,000 0 0		
		57,509 5 8½	
Transported	—	132,009 5 8½	4,650,285 5 0½

1693. ACCOUNTS COMMISSIONERS.

No. 764. Page 6.

The ACCOUNT of the EXCHEQUER RECEIPTS—*cont.*

	£ s. d.	£ s. d.	£ s. d.
Transported -	—	—	930,526 5 8½
EXCISE, VIZ:			
Arrears of Double Excise:—			
From 28 Sept. to 30 Dec. 1692 - - -	881 18 8½		
To 31 March 1693 - - - - - -	332 18 5		
To 30 June - - - - - - -	438 14 6		
To 28 Sept. - - - - - - -	806 19 3½		
		1,949 10 11	
Hereditary and Temporary:—			
From 28 Sept. to 30 Dec. 1692 90,193 6 1			
To 31 March 1693 - - - 76,726 15 10½			
To 30 June - - - - 85,521 0 4			
To 28 Sept. - - - - 67,368 0 11½			
	319,809 3 3		
Hereditary:—			
From 28 Sept. to 30 Dec. 1692 750 0 0			
To 31 March 1693 - - - 750 0 0			
To 30 June - - - - 1,200 0 0			
To 28 Sept. - - - - 1,125 0 0			
	3,825 0 0		
¾ *Additional:*—		323,634 3 3	
From 28 Sept. to 30 Dec. 1692 - 53,985 16 11½			
To 31 March 1693 - - - 47,272 16 10			
To 30 June - - - - 41,933 16 5			
To 28 Sept. - - - - 44,487 5 6½			
	187,679 15 9		
¼ *Additional:*			
From 28 Sept. to 30 Dec. 1692 26,992 18 7			
To 31 March 1693 - - - 23,636 8 4			
To 30 June - - - - 20,966 18 4½			
To 28 Sept. - - - - 22,243 12 5			
	93,839 17 8½		
21d and 30d per Barrel:—		281,519 13 5½	
From 28 Sept. to 30 Dec. 1692 - - -	98,505 10 6½		
To 31 March 1693 - - - - - -	41,302 15 11½		
To 30 June - - - - - - -	15,892 8 5½		
To 28 Sept. - - - - - - -	6,505 13 0½		
		162,206 8 0	
Excise for 99 Years:—			
From 30 Dec. 1692 to 31 March 1693 - -	1,757 19 4½		
To 30 June - - - - - - -	24,167 5 7½		
To 28 Sept. - - - - - - -	30,255 8 7		
		56,180 13 7	
Low Wines:—			
From 28 Sept. to 30 Dec. 1692 - - -	3,142 3 9½		
To 31 March 1693 - - - - - -	2,699 2 2		
To 30 June - - - - - - -	3,532 3 5		
To 28 Sept. - - - - - - -	4,117 6 2½		
		13,490 15 7	
Letter Money:—			838,981 4 9½
From 28 Sept. to 30 Dec. 1692 - - -	—	25,317 2 1	
To 31 March 1693 - - - - - -	—	52,787 0 1	
To 30 June - - - - - - -	—	5,950 0 0	
To 28 Sept. - - - - - - -	—	875 0 0	
			84,929 2 2
Transported -	—	—	1,854,436 12 8

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	£ s. d.	£ s. d.	£ s. d.
Transported -			1,854,436 12 8
ON SMALL BRANCHES, VIZ.:—			
Seizures:—			
From 28 Sept. 1692 o 30 Dec. 1692 - -	1,673 6 10½		
To 31 March 1693 - - - - -	2,015 13 11½		
To 30 June - - - - - -	2,878 5 11		
To 28 Sept. - - - - - -	1,682 7 11		
		8,249 14 8	
Tenths:—			
From 28 Sept. to 30 Dec. 1692 - - -	2,469 5 3		
To 31 March 1693 - - - - - -	2,719 11 7		
To 30 June - - - - - - -	11,019 14 9½		
To 28 Sept. - - - - - - -	2,916 18 6½		
		19,125 10 2	

General State of Receipts and Issues, &c.

1693.

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The ACCOUNT of the Issues at the EXCHEQUER.—*cont.*

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -				132,009	5	8½	4,650,285	5	0½
The Cofferer:—									
From 28 Sept. to 30 December 1692 - -	32,855	0	0						
To 31 March 1693 - - - - - -	55,331	9	0						
To 30 June - - - - - - -	6,100	0	0						
To 28 Sept. - - - - - - -	6,000	0	0						
				100,286	9	0			
Treasurer of the Chamber:—									
From 28 Sept. to 30 Dec. 1692 - - -	10,376	8	0						
To 31 March 1693 - - - - - -	22,386	12	11½						
To 30 June - - - - - - -	8,303	5	4						
To 28 Sept. - - - - - - -	306	14	2						
				41,373	0	5½			
Master of the Great Wardrobe:—									
From 30 Dec. 1692 to 31 March 1693 - -	15,000	0	0						
To 30 June - - - - - - -	2,320	4	9						
				17,320	4	9			
Master of the Horse:—									
From 28 Sept. to 30 Dec. 1692 - - -	1,200	0	0						
To 31 March 1693 - - - - - -	4,399	11	0						
To 30 June - - - - - - -	2,700	0	0						
To 28 Sept. - - - - - - -	3,025	0	0						
				11,324	11	0			
For the Mint—To Thomas Neale, Esq.:—									
From 30 Dec. 1692 to 31 March 1693 - -	3,975	0	0						
To 30 June - - - - - - -	775	0	0						
To 28 Sept. - - - - - - -	387	10	0						
				5,137	10	0			
Jewels and Plate:—									
From 30 Dec. 1692 to 31 March 1693 -	—			3,880	1	2			
Gardens:—									
From 28 Sept. to 30 Dec. 1692 - - -	1,240	0	0						
To 31 March 1693 - - - - - -	10,767	5	0						
				12,007	5	0			
Works:—									
From 28 Sept. to 30 Dec. 1692 - - -	41,127	6	11½						
To 31 March 1693 - - - - - -	57,941	11	9½						
To 30 June - - - - - - -	3,300	0	0						
To 28 Sept. - - - - - - -	1,982	6	6						
				104,351	5	3½			
Law Suits:—									
From 28 Sept. to 30 Dec. 1692 - - -	700	0	0						
To 31 March 1693 - - - - - -	900	0	0						
To 30 June - - - - - - -	600	0	0						
To 28 Sept. - - - - - - -	1,500	0	0						
				3,700	0	0			
Band of Pensioners—To Wm. Smith, Paymaster:—									
From 30 Dec. 1692 to 31 March 1693 - -	1,500	0	0						
To 30 June - - - - - - -	3,000	0	0						
				4,500	0	0			
Ambassadors, Envoys, &c.:—									
From 28 Sept. to 30 Dec. 1692 - - -	13,829	3	2						
To 31 March 1693 - - - - - -	2,683	5	3						
To 30 June - - - - - - -	22,515	3	9½						
To 28 Sept. - - - - - - -	1,257	2	7						
				40,284	14	9½			
Transported -	—			476,174	7	1½	4,650,285	5	0½

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	£	s.	d.	£	s.	d.	£	s.	d.
Transported -				476,174	7	1½	4,650,285	5	0½
Pensions:—									
From 28 Sept. to 30 Dec. 1692 - - -	19,945	10	0½						
To 31 March 1693 - - - - - -	4,925	10	7½						
To 30 June - - - - - - -	34,616	18	11½						
To 28 Sept. - - - - - - -	5,891	15	4						
				65,379	14	11½			
Free Gifts:—									
From 28 Sept. to 30 Dec. 1692 - - -	9,039	7	10½						
To 31 March 1693 - - - - - -	1,620	18	0						
To 30 June - - - - - - -	20,434	10	0						
To 28 Sept. - - - - - - -	4,453	5	5						
				35,548	1	3½			

1693. ACCOUNTS COMMISSIONERS.

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The ACCOUNT of the EXCHEQUER RECEIPTS, *cont.*

	£ s. d.	£ s. d.	£ s. d.
On Small Branches—*cont.*			
First Fruits:—			
From 28 Sept. to 30 Dec. 1692	2,186 5 0		
To 31 March 1693	500 0 0		
To 30 June	1,750 0 0		
To 28 Sept.	2,104 5 5		
		6,540 10 5	
Alienations:—			
From 28 Sept. to 30 Dec. 1692	500 0 0		
To 31 March 1693	900 0 0		
To 30 June	1,100 0 0		
To 28 Sept.	83 17 6		
		2,583 17 6	
Lotteries:—			
From 30 Dec. 1692 to 31 March 1693	847 0 0		
To 30 June	497 0 0		
To 28 Sept.	647 0 0		
		1,991 0 0	
Rent on Grants:—			
From 28 Sept. to 30 Dec. 1692	137 3 4		
To 31 March 1693	13 6 8		
To 30 June	52 10 0		
To 28 Sept.	6 13 4		
		209 13 4	
Sheriffs of Counties:—			
From 28 Sept. to 30 Dec. 1692	464 3 4		
To 31 March 1693	30 0 0		
To 30 June	448 19 5		
To 28 Sept.	140 17 6		
		1,084 0 3	
Sheriffs of Cities:—			
From 28 Sept. to 30 Dec. 1692	22 19 3		
To 31 March 1693	23 16 10		
To 30 June	6 9 5		
To 28 Sept.	23 18 2		
		77 3 8	
Lands Seized:—			
From 28 Sept. to 30 Dec. 1692	1 0 0		
From 31 March to 30 June 1693	700 0 0		
To 28 Sept.	1,282 6 6		
		1,983 6 6	
Rent of Lands:—			
From 28 Sept. to 30 Dec. 1692	1 16 8		
From 31 March to 30 June 1693	3 18 4½		
		5 15 0½	
Transported	—	41,850 11 6½	1,854,436 12 8

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	£ s. d.	£ s. d.	£ s. d.
Transported	—	—	1,854,436 12 8
Small Branches transported	—	41,850 11 6½	
Fines of Leases:—			
From 28 Sept. to 30 Dec. 1692	160 19 0		
To 31 March 1693	1 15 0		
To 30 June	18 4 2		
To 28 Sept.	1,006 2 4		
		1,187 0 6	
Sale of Farthings:—			
From 28 Sept. to 30 Dec. 1692	1,400 0 0		
To 31 March 1693	200 0 0		
		1,600 0 0	
Temporalities:—			
From 28 Sept. to 30 Dec. 1692	428 17 0		
To 31 March 1693	162 12 7		
To 30 June	14 14 0½		
		606 3 7½	
Receivers General:—			
From 28 Sept. to 30 Dec. 1692	400 0 0		
From 31 March to 30 June 1693	100 0 0		
To 28 Sept.	953 5 5		
		1,453 5 5	
Baronets:—			
From 28 Sept. to 30 Dec. 1692	2,012 5 2		
From 31 March to 30 June 1693	1,095 0 0		
		3,107 5 2	

General State of Receipts and Issues, &c.

1693.

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The ACCOUNT of the Issues at the EXCHEQUER.—*cont.*

	£ s. d.	£ s. d.	£ s. d.
Salaries, &c. :—			
From 28 Sept. to 30 Dec. 1692	19,105 15 5½		
To 31 March 1693	23,132 8 9½		
To 30 June	13,334 6 5		
To 28 Sept.	11,835 19 0½		
		67,408 9 8½	
Rewards to Receivers :—			
From 28 Sept. to 30 Dec. 1692	2,641 12 11		
To 31 March 1693	939 5 6		
To 30 June	1,824 5 11		
To 28 Sept.	4,256 18 8		
		9,662 3 0	
Redemption of Captives :—			
From 31 March to 30 June 1693	—	958 12 4	
Their Majesties' Share of Condemned Tobacco Stalks :—			
From 28 Sept. to 30 Dec. 1692	44 3 11½		
To 31 March 1693	3 13 6		
		47 17 5½	
Surplus of Accounts :—			
From 28 Sept. to 30 Dec. 1692	48 10 1		
To 31 March 1693	1,200 0 0		
To 30 June	376 13 7½		
To 28 Sept.	1,141 3 3		
		2,766 6 11½	
Rent Paid :—			
From 28 Sept. to 30 Dec. 1692	150 0 0		
To 31 March 1693	75 0 0		
To 30 June	75 0 0		
		300 0 0	
Rewards for Service :—			
From 30 Dec. 1692 to 31 March 1693	515 17 9½		
To 30 June	4,617 12 8		
To 28 Sept.	421 10 2½		
		5,555 0 8½	
Appre[he]nding Highwaymen :—			
From 31 March to 30 June 1693	240 0 0		
To 28 Sept.	773 19 11		
		1,013 19 11	
Soliciting Taxes :—			
From 30 June to 28 Sept. 1693	—	200 0 0	
Transported	—	665,014 13 5½	4,650,285 5 0½

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	£ s. d.	£ s. d.	£ s. d.
Transported	—	665,014 13 5½	4,650,285 5 0½
Stationery Ware :—			
From 28 Sept. to 30 Dec. 1692	—	11,864 9 7	
			676,879 3 0½
Interest of money borrowed	—	—	208,299 12 5
Total transported	—	—	5,535,464 0 5½

1693.

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ACCOUNTS COMMISSIONERS.

Page 9—*cont.*

The ACCOUNT of the EXCHEQUER RECEIPTS.—*cont.*

	£ s. d.	£ s. d.	£ s. d.
Hanaper:—			
From 28 Sept. to 30 Dec. 1692	10 0 0		
To 31 March 1693	27 4 7		
		37 4 7	
Compositions:—			
From 30 Dec. 1692 to 31 March 1693	3 6 8		
From 30 June to 28 Sept. 1693	2 6 8		
		5 13 4	
Silver Coined:—			
From 28 Sept. to 30 Dec. 1692	—	4,062 10 5	
Sale of Stolen Cloth:—			
From 31 March to 30 June 1693	—	110 13 10½	
Wrecks:—			
From 28 Sept. to 30 Dec. 1692	—	500 0 0	
Surplus of Mr. Loveing's Rent:—			
From 30 June to 28 Sept. 1693	—	0 0 0½	
			54,520 8 5½
Million Act, viz.:—			
Contributions:—			
From 30 Dec. 1692 to 31 March 1693	200,800 0 0		
To 1 May	176,800 0 0		
		377,600 0 0	
Annuities:—			
From 1 May to 30 June 1693	221,378 17 6		
To 28 Sept.	282,514 16 8		
		503,893 14 2	
			881,493 14 2
Transported	—	—	2,790,450 15 3½

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	£ s. d.	£ s. d.	£ s. d.
Transported	—	—	2,790,450 15 3½
Taxes, viz.:—			
Present Aid:—			
From 28 Sept. to 30 Dec. 1692	—	125 12 9	
First Poll:—			
From 28 Sept. to 30 Dec. 1692	13 16 9		
To 31 March 1693	76 8 6		
To 30 June	34 6 1		
To 28 Sept.	458 12 4		
		583 3 8	
First 12d. Aid:—			
From 28 Sept. to 30 Dec. 1692	1 17 0		
To 31 March 1693	65 0 0		
To 30 June	674 0 6½		
To 28 Sept.	190 14 8		
		931 12 2½	
2s. Aid:—			
From 28 Sept. to 30 Dec. 1692	800 7 9		
To 31 March 1693	347 17 4		
To 30 June	178 13 8		
To 28 Sept.	758 5 9		
		2,085 4 6	
Additional Aid:—			
From 28 Sept. to 30 Dec. 1692	400 3 10½		
To 31 March 1693	173 18 8		
To 30 June	89 6 10		
To 28 Sept.	379 2 10		
		1,042 12 2½	
Review and Additional Poll:—			
From 28 Sept. to 30 Dec. 1692	290 0 0		
From 30 June to 28 Sept. 1693	21 10 0		
		311 10 0	
Second Poll:—			
From 28 Sept. to 30 Dec. 1692	108 12 0		
From 31 March to 30 June 1693	563 14 9		
To 28 Sept.	234 2 0		
		906 8 9	

General State of Receipts and Issues, &c.

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Page 10—*cont.*

The ACCOUNT of the Issues at the Exchequer—*cont.*

	£	s.	d.	£	s.	d.	£	s.	d.

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	£	s.	d.	£	s.	d.	£	s.	d.
Total transported -	—			—			5,535,464	0	5½

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ACCOUNTS. COMMISSIONERS.

Page 11—*cont.*

The ACCOUNT of the EXCHEQUER RECEIPTS,—*cont.*

	£ s. d.	£ s. d.	£ s. d.
Taxes, viz.—cont.			
First 12 *Months' Aid*:—			
From 28 Sept. to 30 Dec. 1692	200 0 0		
To 31 March 1693	95 9 9		
From 30 June to 28 Sept.	17 7 8		
		312 17 5	
Second 12 *Months' Aid*:—			
From 28 Sept. to 30 Dec. 1692	405,127 0 11		
To 31 March 1693	373,517 3 7		
To 30 June	54,201 8 8½		
To 28 Sept.	14,586 8 10½		
		847,432 2 1	
Quarterly Poll, viz.:—			
First Quarter:—			
From 28 Sept. to 30 Dec. 1692 — 528 15 1			
To 31 March 1693 — 360 0 0			
To 30 June — 1,080 3 0			
	1,968 18 1		
Second Quarter:—			
From 28 Sept. to 30 Dec. 1692 24,331 2 9			
To 31 March 1693 — 1,900 0 0			
To 30 June — 3,565 16 3			
	29,796 19 0		
Transported —	31,765 17 1	853,731 3 7	2,790,450 15 3½

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	£ s. d.	£ s. d.	£ s. d.
Transported —	—	853,731 3 7	2,790,450 15 3½
Taxes transported —	31,765 17 1		
Third Quarter Poll:—			
From 28 Sept. to 30 Dec. 1692 — 99,283 1 0			
To 31 March 1693 — 28,711 15 0			
To 30 June — 7,190 3 5			
To 28 Sept. — 9,914 0 11½			
	145,099 0 4½		
Fourth Quarter:—			
From 30 Dec. 1692 to 31 March 1693. 96,145 4 4			
To 30 June — 40,098 7 6½			
To 28 Sept. — 9,011 3 9			
	145,254 15 7½		
		322,119 13 1	
			1,175,850 16 8
4*s. Aid*:			
From 30 Dec. 1692 to 31 March 1693 —	20,657 0 0		
To 30 June —	390,078 1 6		
To 28 Sept. —	453,965 2 9		
		864,700 4 3	
Review of the Quarterly Poll:—			
From 30 June to 28 Sept. 1693 —	—	3,814 4 2	
Joint Stocks:—			
From 30 Dec. 1692 to 31 March 1693 —	1,504 15 0		
To 30 June —	20,104 15 0		
		21,609 10 0	
			889,623 18 5
Received by Loans more than repaid —	—	—	911,334 9 5½
			5,767,259 19 10½

General State of Receipts and Issues, &c.

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Page 12—*cont.*

The ACCOUNT of the ISSUES at the EXCHEQUER—*cont.*

	£ s. d.	£ s. d.	£ s. d.

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	£ s. d.	£ s. d.	£ s. d.
Total transported -	—	—	5,535,464 0 5½
Remaining in Cash, 28 Sept. 1693 - - -	—	—	231,795 19 4½
			5,767,259 19 10½

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ACCOUNTS COMMISSIONERS.

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The ACCOUNTS of CUSTOMS and COINAGE, from 29 Sept. 1692 to 29 Sept. 1693. Dr.

	£ s. d.	£ s. d.	£ s. d.
To Remains in Cash, 29 Sept. 1692, viz.:—			
Of Customs	—	9,240 0 2½	
Coinage	—	82 17 7½	
			9,322 17 10
To Receipts since, to 29 Sept. 1693, viz., Customs.			
In the Port of London:—			
From 29 Sept. to 31 Dec. 1692	89,440 6 0		
To 1 April 1693	73,019 5 0½		
To 1 July	116,671 8 8½		
To 29 Sept.	81,639 0 1½		
		359,769 19 10½	
At the Out Ports:—			
From 29 Sept. to 31 Dec. 1692	26,283 1 4		
To 1 April 1693	9,883 19 8		
To 1 July	7,744 15 4½		
To 29 Sept.	13,499 3 11½		
		57,411 0 3½	
On Bonds:—			
From 29 Sept. to 31 Dec. 1692	8,227 15 6½		
To 1 April 1693	9,445 0 4		
To 1 July	12,811 8 0		
To 29 Sept.	10,498 6 11		
		40,982 10 9½	
On Coffee and Tea:—			
From 1 July to 29 Sept. 1693	—	11,517 10 0	
Of Coinage:—			
From 29 Sept. 1692 to 25 March 1693	1,166 2 2		
To 30 June	462 11 9		
To 29 Sept.	5,368 0 4½		
		6,996 14 3½	
			476,677 15 2½
Total transported	—	—	486,000 13 0½

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	£ s. d.	£ s. d.	£ s. d.
Total transported	—	—	486,000 13 0½

General State of Receipts and Issues, &c.

1693.

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Page 16.

The ACCOUNTS of CUSTOMS and COINAGE, from 29 Sept. 1692 to 29 Sept. 1693. Cr.

	£ s. d.	£ s. d.	£ s. d.
By Payments into the Exchequer, viz.:—			
Of Customs:—			
From 29 Sept. to 31 Dec. 1692	93,784 18 2		
To 1 April 1693	51,166 7 7		
To 1 July	81,675 16 9½		
To 29 Sept.	59,823 10 7½		
		286,450 13 2½	
Coffee and Tea:—			
From 1 July to 29 Sept. 1693	—	11,517 10 0	
Coinage:—			
From 29 Sept. to 31 Dec. 1692	700 0 0		
From 1 April to 1 July 1693	1,000 0 0		
To 29 Sept.	500 0 0		
		2,200 0 0	
By Debentures, Allowances, and Portage Bills, viz.:			300,368 3 2½
On Customs:—			
From 29 Sept. to 31 Dec. 1692	18,522 4 7		
To 1 April 1693	35,793 1 5½		
To 1 July	38,547 1 9½		
To 29 Sept.	26,401 16 5		
	119,264 4 8		
On Coinage:—			
From 1 April to 1 July 1693 - 54 15 9½			
To 29 Sept. - 52 11 0½			
	107 6 10		
		119,371 11 1	
By Tidesmen, Watchmen, and Porters:—			
From 29 Sept. to 31 Dec. 1692 7,144 19 4			
To 1 April 1693 4,187 16 7			
To 1 July 4,778 6 8½			
To 29 Sept. 4,591 18 10			
	20,703 1 5½		
By Salaries and Incidents:—			
From 29 Sept. to 31 Dec. 1692 8,008 17 1½			
To 1 April 1693 6,708 19 4			
To 1 July 1693 12,429 6 10			
To 29 Sept. 3,367 2 2½			
	30,514 5 6		
		51,217 6 11½	
By Payments to Secretaries of State:—			170,588 18 0
From 29 Sept. to 31 Dec. 1692	925 0 0		
To 1 April 1693	462 10 0		
To 1 July	462 10 0		
To 29 Sept.	925 0 0		
		2,775 0 0	
To the Earl of Pembroke, Lord Privy Seal:—			
From 29 Sept. to 31 Dec. 1692	—	212 0 0	
Henry Ayloff, King's Remembrancer:—			
From 31 Dec. 1692 to 1 April 1693	—	424 1 8	
Henry Ballow, Deputy Chamberlain of the Exchequer:—			
From 31 Dec. 1692 to 1 April 1693	—	71 11 0	
Officers of the Pipe:—			
From 1 April to 1 July 1693	—	80 12 0	
Wm. Wicket, and Executors of John Langwith, Messengers:—			
From 31 Dec. 1692 to 1 April 1693	—	14 10 0	
Transported	—	3,577 14 8	470,957 1 2½

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	£ s. d.	£ s. d.	£ s. d.
Transported	—	3,577 14 8	470,957 1 2½
To Simon Smith, Otter-Hunter:—			
From 29 Sept. to 31 Dec. 1692	7 0 2½		
From 1 April to 1 July 1693	21 0 10		
		28 1 1½	
By Pensions paid, viz.:—			3,605 1 9
To Samuel Clark:—			
From 29 Sept. to 31 Dec. 1692	150 0 0		
From 1 April to 1 July 1693	75 0 0		
To 29 Sept.	75 0 0		
		300 0 0	

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Accounts Commissioners.

Page 17—*cont.*

The Accounts of Customs and Coinage—*cont.* Dr.

	£ . d.	£ s. d.	£ s. d.

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	£ s. d.	£ s. d.	£ s. d.
Total transported -	—	—	486,000 13 0½
To an Over-pay of Customs, made 29 Sept. 1693 - - - - - - - - - -	—	—	3,496 14 1½

General State of Receipts and Issues, &c.

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Page 18—*cont.*

The ACCOUNTS of CUSTOMS and COINAGE—*cont.* Cr.

	£ s. d.	£ s. d.	£ s. d.
By Pensions paid—cont.			
Thomas Hide:—			
From 29 Sept. to 31 Dec. 1692	25 0 0		
To 1 April 1693	12 10 0		
To 1 July	25 0 0		
		62 10 0	
George Tuthill:—			
From 31 Dec. 1692 to 1 April 1693	100 0 0		
To 1 July	50 0 0		
		150 0 0	
Amias and Juliana Hext:—			
From 1 April to 1 July 1693	200 0 0		
To 29 Sept.	50 0 0		
		250 0 0	
Thomas Fairfax:—			
From 1 April to 1 July 1693	125 0 0		
To 29 Sept.	25 0 0		
		150 0 0	
The City of London:—			
From 1 April to 1 July 1693	—	96 12 0	
Corporation of Dartmouth:—			
From 1 July to 29 Sept. 1693	—	80 0 0	
Corporation of Lyme:—			
From 31 Dec. 1692 to 1 April 1693	50 0 0		
From 1 July to 29 Sept.	50 0 0		
		100 0 0	
The Bishop of Sarum:—			
From 29 Sept. to 31 Dec. 1692	285 2 6		
From 1 April to 1 July 1693	285 2 6		
		570 5 0	
			1,759 7 0
By Thomas Baker, Consul at Algiers:—			
From 29 Sept. to 31 Dec. 1692	150 0 0		
To 1 April 1693	378 10 7		
To 1 July	150 0 0		
To 29 Sept.	150 0 0		
		828 10 7	
Nathaniel Lodington, Consul at Tripoli:—			
From 29 Sept. to 31 Dec. 1692	95 0 0		
From 1 April to 1 July 1693	190 0 0		
To 29 Sept.	95 0 0		
		380 0 0	
			1,208 10 7
The Master of Horse:—			1,317 8 6
From 29 Sept. to 31 Dec. 1692	—	—	
Transported	—	—	478,848 3 1½

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	£ s. d.	£ s. d.	£ s. d.
Transported	—	—	478,848 3 1½
By Interest paid several Persons, viz.:—			
To the East India Company:—			
From 31 Dec. 1692 to 1 April 1693	—	1,482 3 5½	
To Several on 2 per Cent. Gratuity:—			
From 31 Dec. 1692 to 1 April 1693	1,262 9 2½		
To 1 July	445 6 9½		
To 29 Sept.	1,000 4 3		
		2,708 0 3	
To John Knight:			
From 29 Sept. to 31 Dec. 1692	336 15 4		
To 1 April 1693	450 0 0		
To 1 July	450 0 0		
To 29 Sept.	450 0 0		
		1,686 15 4	
			5,876 19 0½
			484,725 2 1½
By Balance of Coinage remaining in Cash, 29 Sept. 1693	—	—	4,772 5 0½
			489,497 7 2½

Memorandum.—	£ s. d.
Though the balance of Coinage as above be	4,772 5 0½
If the Over-pay on the other side be deducted, being	3,496 14 1½
The remains will then be	1,275 10 11

1693.

Accounts Commissioners.

No. 764.

Page 21.

The Account of New Impositions, from 29 Sept. 1692 to 29 Sept. 1693. Dr.

	£ s. d.	£ s. d.
To Receipts of—		
East India Goods :—		
From 29 Sept. to 31 Dec. 1692	60,465 13 7	
To 1 April 1693	18,032 1 7½	
To 1 July	29,472 12 7½	
To 29 Sept.	37,848 8 9½	
		145,818 16 7½
Wine and Vinegar :—		
From 29 Sept. to 31 Dec. 1692	15,840 7 5½	
To 1 April 1693	24,163 19 8½	
To 1 July	78,714 11 1½	
To 29 Sept.	27,845 5 7½	
		146,564 3 11½
Tobacco and Sugar :—		
From 29 Sept. to 31 Dec. 1692	52,904 14 0	
To 1 April 1693	12,135 4 0	
To 1 July	9,784 19 0½	
To 29 Sept.	11,572 15 5½	
		86,397 12 5½
Additional Impositions :—		
From 31 Dec. 1692 to 1 April 1693	150 0 0	
To 1 July	5,114 9 7½	
To 29 Sept.	8,031 17 7½	
		13,296 7 2½
		392,077 0 3½

Page 23.

The Account of the Excise, from 3 Oct. 1692 to 2 Oct. 1693. Dr.

	£ s. d.	£ s. d.	£ s. d.
To the Remains in Cash, 3 Oct. 1692	—	—	24,191 6 10½
To Receipts since, viz. :—			
Of Hereditary and Temporary Excise :—			
From 3 Oct. to 2 Jan. 1692	108,563 13 6½		
To 3 April 1693	109,589 9 3		
To 3 July	96,742 2 2½		
To 2 October	102,787 6 0½		
		417,682 11 0½	
Additional 9d. and Double 9d. :—			
From 3 Oct. to 2 Jan. 1692	77,846 16 7½		
To 3 April 1693	72,470 14 0½		
To 3 July	62,653 12 8½		
To 2 Oct.	67,379 0 7½		
		280,350 3 11½	
21d. and 30d. per Barrel :—			
From 3 Oct. to 2 Jan. 1692	95,412 2 3		
To 3 April 1693	40,523 18 4½		
To 3 July	12,509 9 0½		
To 2 Oct.	7,174 19 2½		
		156,620 8 10	
Excise for 99 Years :—			
From 2 Jan. 1692 to 3 April 1693	2,798 5 5		
To 3 July	25,674 2 5		
To 2 Oct.	30,606 8 0½		
		59,078 15 10½	

General State of Receipts and Issues, &c. 1693.

No. 764.

Page 22.

The ACCOUNT of NEW IMPOSITIONS, from 29 Sept. 1692 to 29 Sept. 1693. Cr.

	£ s. d.	£ s. d.	£ s. d.
By Payments into the Exchequer, viz., of—			
East India Goods :—			
From 29 Sept. to 31 Dec. 1692	60,465 13 7		
To 1 April 1693	18,032 1 7½		
To 1 July	29,472 12 7½		
To 29 Sept.	37,848 8 9½		
		145,818 16 7½	
Wine and Vinegar :—			
From 29 Sept. to 31 Dec. 1692	14,114 7 2½		
To 1 April 1693	22,507 2 6½		
To 1 July	77,389 0 5½		
To 29 Sept.	21,764 15 2½		
		136,775 5 5½	
Tobacco and Sugar :—			
From 29 Sept. to 31 Dec. 1692	51,081 15 3½		
To 1 April 1693	9,035 14 10		
To 1 July	7,550 3 1½		
To 29 Sept.	8,007 19 5		
		75,675 12 8½	
Additional Impositions :—			
From 31 Dec. 1692 to 1 April 1693	150 0 0		
To 1 July	5,114 9 7½		
To 29 Sept.	8,029 1 4½		
		13,293 10 11½	
			371,563 5 9
By Allowances on Wines and Vinegar :—			
From 29 Sept. to 31 Dec. 1692	1,726 0 3		
To 1 April 1693	656 17 2		
To 1 July	1,325 10 8		
To 29 Sept.	6,080 10 5		
		9,788 18 6	
Debentures and Allowances on Tobacco and Sugar :—			
From 29 Sept. to 31 Dec. 1692	1,860 11 11½		
To 1 April 1693	3,061 15 11		
To 1 July	2,234 15 10½		
To 29 Sept.	3,564 16 0½		
		10,721 19 9½	
Allowances on Additional Imporations [Impositions] :			
From 1 July to 29 Sept. 1693	—	2 16 3	
			20,513 14 6½
			392,077 0 3½

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The ACCOUNT of the EXCISE, from 3 Oct. 1692 to 2 Oct. 1693. Cr.

	£ s. d.	£ s. d.	£ s. d.
By Payments into the Exchequer, viz. :—			
Of Hereditary and Temporary Excise :—			
From 3 Oct. to 2 Jan. 1693	46,140 17 3½		
To 3 April 1693	31,726 15 10½		
To 3 July	15,593 13 11½		
To 2 Oct.	13,320 1 6½		
		106,781 8 8	
Additional 9d. and Double 9d. ;—			
From 3 Oct. to 2 Jan. 1692	80,978 15 6½		
To 3 April 1693	70,909 5 2		
To 3 July	62,900 14 9½		
To 2 Oct.	66,730 17 11½		
		281,519 13 5½	
Double Excise ;—			
From 3 Oct. to 2 Jan. 1692	381 18 7½		
To 3 April 1693	322 18 5		
To 3 July	438 14 6		
To 2 Oct.	805 19 3½		
		1,949 10 10	
21d. and 30d. per Barrel :—			
From 3 Oct. to 2 Jan. 1692	98,505 10 7½		
To 3 April 1693	41,302 15 11½		
To 3 July	15,892 8 5½		
To 2 Oct.	6,506 13 0½		
		162,206 8 1	
Excise for 99 Years :—			
From 2 Jan. 1692 to 3 April 1693	1,757 19 4½		
To 3 July	24,167 5 7½		
To 2 Oct.	30,255 8 7		
		56,180 13 7	

1693. ACCOUNTS COMMISSIONERS.

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Page 23—*cont.*

The ACCOUNT of the EXCISE, from 3 Oct. 1692 to 2 Oct. 1693—*cont.* Dr.

	£ s. d.	£ s. d.	£ s. d.
Low Wines:—			
From 3 Oct. to 2 Jan. 1692 - - - -	3,143 0 9½		
To 3 April 1693 - - - - - -	3,700 0 0		
To 3 July - - - - - - -	4,145 16 10½		
To 2 Oct. - - - - - - -	4,657 11 4½		
		15,646 9 0½	
			929,378 8 9½
Total transported -	—	—	953,569 15 7½

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	£ s. d.	£ s. d.	£ s. d.
Total transported -	—	—	953,569 15 7½

General State of Receipts and Issues, &c.

1693.

No. 764.

Page 24—*cont.*

The ACCOUNT of the EXCISE, from 3 Oct. 1692 to 2 Oct. 1693—*cont.* Cr.

	£ s. d.	£ s. d.	£ s. d.
Low Wines:—			
From 3 Oct. to 2 Jan. 1692	3,142 3 9½		
To 3 April 1693	2,699 2 2		
To 3 July	3,532 3 5		
To 2 Oct.	6,268 0 7		
		15,641 9 11½	
By Pensions, viz.:—			624,279 4 7
To the Queen Dowager:—			
From 3 Oct. to 2 Jan. 1692	3,052 8 9½		
To 3 April 1693	3,052 8 9½		
To 3 July	3,052 8 9½		
To 2 Oct.	3,052 8 9½		
		12,209 15 2	
Prince and Princess of Denmark:—			
From 3 Oct. to 2 Jan. 1692	13,000 0 0		
To 3 April 1693	13,000 0 0		
To 3 July	13,000 0 0		
To 2 Oct.	10,500 0 0		
		49,500 0 0	
Duke of Grafton:—			
From 3 Oct. to 2 Jan. 1692	500 0 0		
To 3 April 1693	500 0 0		
To 3 July	500 0 0		
To 2 Oct.	500 0 0		
		2,000 0 0	
Transported	—	63,709 15 2	624,279 4 7

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	£ s. d.	£ s. d.	£ s. d.
Transported	—	63,709 15 2	624,279 4 7
To the Duchess of Grafton:—			
From 3 Oct. to 2 Jan. 1692	250 0 0		
To 3 April 1693	250 0 0		
To 3 July	250 0 0		
To 2 Oct.	250 0 0		
		1,000 0 0	
Duke of Northumberland:—			
From 3 Oct to 2 Jan. 1692	100 0 0		
From 3 April to 3 July 1693	1,300 0 0		
To 2 Oct.	1,300 0 0		
		2,600 0 0	
Duke of Southampton:—			
From 3 Oct. to 2 Jan. 1692	50 0 0		
From 3 April to 3 July 1693	1,050 0 0		
To 2 Oct.	650 0 0		
		1,750 0 0	
Duchess of Buccleugh:—			
From 3 Oct. to 2 Jan. 1692	1,100 0 0		
From 3 April to 3 July 1693	1,200 0 0		
To 2 Oct.	1,300 0 0		
		3,600 0 0	
Duke of Norfolk:—			
From 3 April to 3 July 1693	1,100 0 0		
To 2 Oct.	1,300 0 0		
		2,400 0 0	
Duchess of Richmond:—			
From 3 April to 3 July 1693	330 0 0		
To 2 Oct.	390 0 0		
		720 0 0	
Countess of Portland:—			
From 3 April to 3 July 1693	140 0 0		
To 2 Oct.	260 0 0		
		400 0 0	
Bailiffs of Great Yarmouth:—			
From 3 April to 3 July 1693	—	160 0 0	
			76,339 15 2
By Repayment of Loan:—			
From 3 Oct. to 2 Jan. 1692	39,000 0 0		
To 3 April 1693	52,000 0 0		
To 3 July	50,900 0 0		
To 2 Oct.	63,600 0 0		
		205,500 0 0	

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ACCOUNTS COMMISSIONERS.

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The ACCOUNT of the EXCISE, *continued.* Dr.

	£ s. d.	£ s. d.	£ s. d.
Total transported -	—	—	953,569 15 7½

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The ACCOUNT of the POST OFFICE, from 3 Oct. 1692 to 2 Oct. 1693. Dr.

	£ s. d.	£ s. d.
To the Remains in Cash, 3 Oct. 1692 - - - - - - -	—	1,167 2 5
To Receipts since, viz.:—		
From 3 Oct. to 2 Jan. 1692 - - - - - - - -	21,159 11 6	
To 3 April 1693 - - - - - - - - - -	21,879 17 3	
To 3 July - - - - - - - - - - -	21,721 5 2	
To 2 Oct. - - - - - - - - - - -	21,683 10 7	
		86,444 4 6
Transported -	—	87,611 6 11
Memorandum.— The sums following, charged on the other side, are not included in the Pensions paid at the Exchequer, viz.:—		
William Dockwra - - - - - - - - - -	625 0 0	
Earl of Rochester - - - - - - - - - -	4,200 0 0	
Part of what was paid the Marquis of Carmarthen -	3,500 0 0	
In all - - -	8,325 0 0	

Which answers the charge of pensions paid at the Post Office in the General Account.

General State of Receipts and Issues, &c.

Page 26—*cont.*

The ACCOUNT of the EXCISE, *continued.* Cr.

	£ s. d.	£ s. d.	£ s. d.
Interest:—			
From 3 Oct. to 2 Jan. 1692	1,534 7 8½		
To 3 April 1693	1,395 9 3½		
To 3 July	1,662 8 6		
To 2 Oct.	1,357 7 0		
		5,949 12 6½	
By Salaries and Incidents:—			311,449 12 6½
From 3 Oct. to 2 Jan. 1692	—	6,830 18 3	
To 3 April 1693	—	5,173 18 0	
To 3 July	—	7,146 4 1	
To 2 Oct.	—	5,367 8 0	
			24,518 8 4
			936,587 0 7½
By Balance remaining in Cash, 2 October 1693, viz.:—			
Of Hereditary and Temporary Excise	—	7,856 7 2½	
Additional 9*d.* and Double 9*d.*	—	6,068 9 7½	
Double 21*d.* and 30*d.*	—	149 7 8	
Excise for 99 years	—	2,898 2 3½	
Low Wines	—	10 8 3	
			16,982 15 0½
			953,569 15 7½

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The ACCOUNT of the POST OFFICE, from 3 Oct. 1692 to 2 Oct 1693. Cr.

	£ s. d.	£ s. d.	£ s. d.
By Payments into the Exchequer:—			
From 3 Oct. to 2 Jan. 1692	—	1,167 2 1	
To 3 April 1693	—	659 15 1	
			1,826 17 2
By Pensions, viz.:—			
To the Duchess of Cleveland:—			
From 3 Oct. to 2 Jan. 1692	600 0 0		
To 3 April 1693	1,950 0 0		
To 3 July	1,950 0 0		
To 2 Oct.	1,950 0 0		
Marquis of Carmarthen on his Pension:—		6,450 0 0	
From 3 Oct. to 2 Jan. 1692	1,750 0 0		
To 3 April 1693	875 0 0		
From 3 July to 2 Oct.	875 0 0		
More as President of the Council:—	3,500 0 0		
From 3 Oct. to 2 Jan. 1692 - 1,125 0 0			
From 3 April to 3 July 1693 - 750 0 0			
	1,875 0 0		
Earl of Rochester:—		5,375 0 0	
From 3 Oct. to 2 Jan. 1692	300 0 0		
To 3 April 1693	1,300 0 0		
To 3 July	1,300 0 0		
To 2 Oct.	1,300 0 0		
William Dockwra:—		4,200 0 0	
From 2 Jan. 1692 to 3 April 1693	375 0 0		
To 3 July	125 0 0		
To 2 Oct.	125 0 0		
By the Works:—		625 0 0	16,650 0 0
From 3 Oct. to 2 Jan. 1692	10,400 0 0		
To 3 April 1693	9,140 0 0		
To 3 July	8,060 0 0		
To 2 Oct.	8,060 0 0		
Gardens:—		35,660 0 0	
From 2 Jan. 1692, to 3 April 1693	1,260 0 0		
To 3 July	2,340 0 0		
To 2 Oct.	2,340 0 0		
Sir Leonard Robinson:—		5,940 0 0	
From 3 April to 3 July 1693	—	2,000 0 0	
The Commissioners of Accounts:—			
From 3 July to 2 Oct. 1693	—	875 0 0	
			44,475 0 0
Henry Guy, Esq.:—			
From 3 Oct. to 2 Jan. 1692	—	—	1,000 0 0
Transported	—	—	63,951 17 2

1693. ACCOUNTS COMMISSIONERS.

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The ACCOUNT of the POST OFFICE—*continued.* Dr.

	£	s.	d.	£	s.	d.
Transported -	—			87,611	6	11

General State of Receipts and Issues, &c.

1693.

No. 764.

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The ACCOUNT of the POST OFFICE—*continued.* Cr.

	£ s. d.	£ s. d.	£ s. d.
By Payments - - - Transported -	—	—	63,951 17 2
By Packet Boats:			
From 3 Oct. to 2 Jan. 1692 - - -	2,650 1 6		
To 3 April 1693 - - - - - -	4,894 16 2		
To 3 July - - - - - - -	2,740 17 3		
To 2 Oct. - - - - - - -	3,022 19 2		
		12,806 14 1	
Salaries and Incidents:			
From 3 Oct. to 2 Jan. 1692 - - -	2,351 17 0		
To 3 April 1693 - - - - - -	2,488 3 8		
To 3 July - - - - - - -	2,754 6 10		
To 2 October - - - - - -	2,523 15 6		
		10,118 3 0	
			22,926 17 1
			86,878 14 3
By Balance remaining in cash, 2 Oct. 1693 -	—	—	732 12 8
			87,611 6 11

Tho: Clarges.
Paul Foley.
Benja. Newland.
Sam: Barnardiston.
Ro: Harley.

1693. — No. 764. **ACCOUNTS COMMISSIONERS.—General State, &c.—*continued.***

Page 31.

A PARTICULAR of SALARIES, &c., charged to be paid in the foregoing Account of the ISSUES out of the Exchequer.

	£ s. d.		£ s. d.
To the Gentlemen of his Majesty's Bedchamber and Groom of the Stole, each	1,000 0 0	Per annum.	10,850 0 0
The Grooms of the same, at each	500 0 0	"	4,625 0 0
Richard Le Bass, Marshal of the Ceremonies, on	200 0 0	"	100 0 0
George Bradbury, Esq., Baron of the Exchequer	163 6 8	"	81 13 4
William Blathwait, Esq., Secretary to the Committee of Plantations	—	—	582 14 6
John Branch, Bailiff of Battles Walk in Windsor Forest	50 0 0	Per annum.	62 10 0
Dr. Thomas Bourchier, Law Professor in Oxon	40 0 0	"	210 0 0
Simon and Mary Brien, Housekeepers at Kensington	300 0 0	"	300 0 0
The Marquis of Carmarthen, President of the Council	1,500 0 0	"	1,875 0 0
William Carter, Charges in preventing the Exportation of Wool	—	—	149 16 10
The Masters in Chancery, each	100 0 0	Per annum.	550 0 0
William Clark, Keeper of Bagshot Rails	30 0 0	"	37 10 0
The Clerks of the Council, each	250 0 0	"	750 0 0
Commissioners of the Treasury	8,000 0 0	"	8,000 0 0
The Lord Privy Seal and Commissioners of the same, in lieu of diet	4 0 0	Per diem.	1,460 0 0
The Lords Commissioners of the Great Seal	4,500 0 0	Per annum.	2,250 0 0
Commissioners of Accounts, for incidents, 1,000*l.*; and to each	500 0 0	"	4,500 0 0
Sir Charles Cotterel, Master of the Ceremonies, on	300 0 0	"	300 0 0
The Earl of Devonshire, Chief Justice in Eyre, North Trent	100 0 0	"	100 0 0
John Dolben and Richd. Cann, Clerks of the Fines in the Marshes of Wales	20 0 0	"	60 0 0
John Dormer, Assistant to the Master of the Ceremonies	0 6 8	Per diem.	121 13 4
The Earl of Dorset, Keeper of Greenwich Park	—	—	100 0 0
The Doorkeepers of the Council Chamber	0 2 6	Per diem.	69 15 0
Sir Thomas Duppa, Usher of the Black Rod	200 0 0	Per annum.	300 0 0
Elizabeth Elliot, Housekeeper at Newmarket	200 0 0	"	100 0 0
To Tho. Felton and Executors of Wm. Chiffinch, Esqrs., Masters of the Hawkes	1,372 10 0	"	2,058 15 0
Simon Harcourt, Esq., Secondary in the Crown Office, for Fees and Expenses	—	—	188 17 4
Richard Hill, Latin Secretary, on	80 0 0	Per annum.	80 0 0
Jacob Harwood, clearing a debt of Oblo. Dungans when Governor of New York	—	—	1,987 11 7½
Robert Humphries, charges at the Trial of the Pix	—	—	89 9 0
Executors of Wm. Harbord, Esq., Keeper of St. James's Park	—	—	75 0 0
The Twelve Judges, each	1,000 0 0	Per annum.	6,000 0 0
Ralph Kein, closet keeper to his Majesty, on	200 0 0	—	50 0 0
The Earl of Lindsey, Warden of Waltham Forest	—	—	350 5 0
The Ld. Lovelace, Chief Justice in Eyre, South Trent, on	166 13 4	Per annum.	83 6 8
The Ld. Lucas, Governor of the Tower, for diet and lodging of prisoners	—	—	245 10 0
Doctor John Luff, Physic Professor in Oxford, on	40 0 0	Per annum.	210 0 0
Sir Algernon May, Keeper of the Records in the Tower	500 0 0	—	500 0 0
Officers of the Exchequer, viz.:—			
To Sir Robert Howard, Writer of the Tallys, &c.	—	460 3 4	
Richard Hambden, Esq., Chancellor and Under Treasurer, on	200 0 0	200 0 0	
William Wardour, Esq., Clerk of the Pells	—	442 15 0	
John Loveing, Esq., one of the Tellers, on	33 6 8	33 6 8	
Francis Villiers, Esq., one of the same	31 13 4	31 13 4	
Thomas Howard, Esq., the same	31 13 4	31 13 4	
Henry Maynard, Esq., the same	31 13 4	31 13 4	
Sir Nicholas Steward and Philip Hilliard, Esq., Chamberlains, each	52 3 4	104 6 8	
John Low, Deputy Chamberlain, for striking Tallys, on	60 0 0	90 0 0	
Peter Le Neve, the same	60 0 0	80 0 0	
John Ady and Henry Ballow, Deputy Chamberlains, for joining Tallys, each	5 0 0	10 0 0	
Robert Russel, Esq., Clerk of the Pipe, on	107 4 2	180 10 10	
John Pottenger, Esq., Comptroller of the Pipe	40 0 0	40 0 0	
Borne forward	—	1,706 2 6	49,454 7 7½

ACCOUNTS COMMISSIONERS.—General State, &c.—*continued.* 1693.

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The PARTICULARS of SALARIES, &c., *continued.*

	£	s.	d.	£	s.	d.	£	s.	d.
Brought forward	—			1,706	3	6	49,454	7	7½
To Sir John Osborne, Treasurer's Remembrancer, per annum	64	2	1	96	3	1½			
Thomas Done and Brook Bridges, Esqrs., Auditors of the Imprests, each	66	13	4	133	6	8			
John Packer, Esq., Usher of the Receipt, on his Liberate, &c.	6	13	4	2,194	14	3½			
John Walker, Esq., Usher of the Court, on his Liberate, &c., per diem	0	0	5	496	3	8			
Christopher Whitaker, Esq., Foreign Apposer, per annum	40	0	0	180	0	0			
Arnold Squibb, Esq., Clerk of the Nitchels	20	0	0	40	0	0			
Walter Wallenger and Thomas Cole, Secondaries in the Remembrancer's Office	10	0	0	25	0	0			
John Tayleur, Secondary	30	13	4	69	0	0			
George Rainton, Clerk to Sir Robert Howard	20	0	0	20	0	0			
Bartholomew Burton the same, per diem	0	2	0	36	10	0			
George Bryers, Clerk to Wm. Wardour, Esq., per annum	5	0	0	5	0	0			
The Clerks of the Pleas, for writing Amerciaments, on 5*l.* per annum, and 3*l.* in 2 years	5	0	0	19	0	0			
George Blackwell, Secondary	5	0	0	5	0	0			
The Messengers, for riding charges and salary, each	40	0	0	1,512	15	0			
Clerks and Ministers of the Receipt	35	0	0	35	0	0			
The four Agents for Taxes, each	200	0	0	800	0	0			
The Clerk to the same 60*l.*, and messenger 10*l.*	70	0	0	147	7	4			
John Hastings, Esq., Clerk of the Foreign Estreats	—			193	6	8			
William Parkes, porter, on	20	0	0	20	0	0			
The Grooms of the Exchequer	2	0	0	2	0	0			
							7,736	9	3
The Officers of the Ordnance, viz.:—									
Sir Henry Goodrick, Lieutenant, on 100 marks fee	66	13	4	150	0	0			
Sir Thomas Littleton, Clerk, per diem	0	2	0	45	12	6			
Charles Bertie, Esq., Treasurer, per annum	40	0	0	50	0	0			
John Charlton, Esq., Surveyor, per diem	0	2	0	45	12	6			
Thomas Gardiner, Esq., Storekeeper	0	0	10	26	12	3½			
Richard Leake, Master Gunner	0	2	0	45	12	6			
							363	9	9½
The Officers of the Works, viz.:—									
Sir Christopher Wren, Surveyor, per diem	0	2	6	45	12	6			
Thomas Lloyd, Esq., Paymaster	0	2	0	36	10	0			
William Dickenson, Esq., Chief Clerk, per annum	66	13	4	66	13	4			
William Talman, Esq., Comptroller, per diem	0	1	6	34	4	4½			
Matthew Bankes, Carpenter	0	1	0	18	5	0			
John Oliver, Mason	0	1	0	18	5	0			
Joseph Ratcliff, Purveyor	0	0	8	15	4	2			
William Ireland, Glasier	0	1	0	19	9	0			
Charles Atherton, Plumber	0	1	0	18	5	0			
Alexander Fort, Joiner on 2*s.* per diem, and, per annum	16	2	6	52	12	6			
Maurice Emmet, Bricklayer, per diem	0	1	0	18	5	0			
John Grove, Plasterer	0	1	0	18	5	0			
Henry Phillips, Carver	0	1	6	27	7	6			
Matthew Roberts, Plumber at Windsor Castle	0	1	0	18	5	0			
							407		4½
To Sir John Osborne, Comptroller of Lotteries, on	300	0	0	Per annum.			100	0	0
Benja. Overton, Esq., for charges in conveying prisoners to give evidence against Clippers	—			—			70	0	0
Sir Littleton Powys, Justice in Wales, on	200	0	0	—			100	0	0
Edward Progers, Esq., charges of repairs and provisions for deer in Hampton Court Park	—			—			365	16	6½
Thomas Pullen, Esq., Master of the Studs	200	0	0	Per annum.			300	0	0
The Master of the Rolls	87	4	7	—			87	4	7
John Philip and Joseph Rotiers, Gravers of the Mint	450	0	0	—			450	0	0
Thomas Rymer, Historiographer	200	0	0	—			150	0	0
Sir John Somers, late Solicitor General	70	0	0	35	0	0			
As Attorney General	81	6	8	40	13	4			
As Lord Keeper of the Great Seal	—			1,000	0	0			
							1,075	13	4
Borne forward	—			—			60,610	4	6

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ACCOUNTS COMMISSIONERS.—General State, &c.—*continued.*

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The PARTICULARS of SALARIES, &c., *continued.*

	£	s.	d.		£	s.	d.
Brought forward -	—			—	60,610	4	6
To the Bishop of Sarum; Charges of the Garter Atchievements at the Installation of the Elector of Saxony and Duke of Zell	—			—	552	10	0
Anthony Seagar, Keeper of the Treasury Chambers, on - - - - - - -	300	0	0	Per annum.	300	0	0
The Master of the Horse, 100 Marks - -	66	13	4	—	66	13	4
The Serjeants at Arms, each - - - -	0	5	6	Per diem.	1,202	4	4½
Doctor Sherlock, Master of the Temple, on -	37	6	8	Per annum.	37	6	8
The Executors of Thomas Shadwell, Poet Laureat - - - - - - - -	300	0	0	—	150	0	0
Simon Smith, Esq., Knight Harbinger, on 10s. per diem, and - - - - - - -	13	6	8	—	147	10	0
John Smith, for washing streets for the Gentlemen and Grooms of the Bedchamber	—			—	36	0	0
Michael Studholme, Surveyor of the Roads, for expenses, and on - - - - - -	0	2	0	Per diem.	73	4	2
Samuel Swynnock, clearing a debt of Colo. Dungans, when Governor of New York -	—			—	635	0	0
Nahum Tate, Poet Laureat, on - - -	100	0	0	Per annum.	75	0	0
Christopher Tankred, Esq., Master of the Harriers - - - - - - - -	500	0	0	—	250	0	0
Sir George Treby, as Attorney General -	81	6	8	—	40	13	4
Sir John Trenchard, Chief Justice of Chester	500	0	0	—	250	0	0
Sir John Trevor, Speaker of the House of Commons - - - - - - - -	5	0	0	Per diem.	1,520	0	0
Sir Thomas Trevor, Solicitor General - -	70	0	0	Per annum.	35	0	0
Edward Lord Villiers, Keeper of Hyde Park, for provisions for the deer - - - -	—			—	200	0	0
John Warner, Master of the Barges, on -	30	0	0	—	15	0	0
Richard Welbeck, Keeper of Reading Stables	12	3	4	—	12	3	4
Robert White, for New Park - - - -	—			—	810	0	0
Sir Joseph Williamson, Keeper of the Records in Whitehall, on - - - - - - -	160	0	0	—	280	0	0
William East, Clerk of the Estreats in the Common Pleas - - - - - - -	20	0	0	—	45	0	0
The Executors of Richard Beresford, Clerk of the Pleas - - - - - - - -	—			—	65	0	0
					67,408	9	8½

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The PARTICULAR of the PENSIONS charged to be paid in the foregoing ACCOUNT of the ISSUES at the EXCHEQUER.

	£	s.	d.		£	s.	d.
To the Lady Katherine Armstrong and her Daughters - - - - - - - -	200	0	0	Per annum.	250	0	0
Anne Acton - - - - - - - -	20	0	0	—	5	0	0
Anne Ashbury - - - - - - -	20	0	0	—	25	0	0
The Earl of Bath - - - - - - -	5,000	0	0	—	3,750	0	0
Captain Baker - - - - - - - -	36	10	0	—	45	12	6
Mrs. Bell - - - - - - - -	20	0	0	—	5	0	0
Robert Bertie, Esq. - - - - - -	40	0	0	—	40	0	0
Jane Berkely - - - - - - - -	200	0	0	—	400	0	0
Lodowick Bray - - - - - - -	40	0	0	—	30	0	0
The Countess of Bristol - - - - -	2,000	0	0	—	2,000	0	0
The Duchess of Buccleugh - - - - -	4,000	0	0	—	6,000	0	0
The Duchess of Buckingham - - - -	1,200	0	0	—	600	0	0
Mrs. Buss - - - - - - - -	20	0	0	—	25	0	0
Mary Cary - - - - - - - -	20	0	0	—	5	0	0
Petronella Cary - - - - - - -	20	0	0	—	5	0	0
King Charles I's Hospital - - - - -	50	0	0	—	50	0	0
Christ's Hospital - - - - - - -	370	10	0	—	370	10	0
Cambridge University - - - - - -	10	0	0	—	10	0	0
The Duchess of Cleveland - - - - -	4,700	0	0	—	10,225	0	0
Mrs. Collins - - - - - - - -	20	0	0	—	25	0	0
Sir John Cotton - - - - - - - -	5	6	8	Perpetuity.	33	6	0
The Earl of Derby, for Preachers in the Isle of Man - - - - - - - - -	100	0	0	Per annum.	100	0	0

ACCOUNTS COMMISSIONERS.—General State, &c.—*continued.*

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The PARTICULARS of PENSIONS, *continued.*

	£	s.	d.		£	s.	d.
To Charles Duncombe, Esq.	300	0	0	Per annum	150	0	0
Mrs. Duke	45	12	6		81	0	7½
Edward Duke	12	0	0	—	6	0	0
Mary Fanshaw	200	0	0	—	250	0	0
Solomon Foubert	500	0	0	—	625	0	0
Anne Golding	120	0	0	—	90	0	0
Anne Goldborough	20	0	0	—	5	0	0
James Grey	400	0	0	—	200	0	0
The Duke of Grafton	2,000	0	0	—	2,000	0	0
The Duchess of Grafton	1,000	0	0	—	1,000	0	0
Elizabeth Hamilton	500	0	0	—	500	0	0
James Hamilton	425	0	0	—	425	0	0
William Hamilton	425	0	0	—	425	0	0
Mrs. Halt	20	0	0	—	5	0	0
Colo. Philip Howard	400	0	0	—	300	0	0
Colonel Hubank	45	12	6	—	87	0	7½
St. James's Parish, Westminster	50	0	0	—	50	0	0
Captain Kettleby	36	10	0	—	45	12	6
Sir William Killegrew	500	0	0	—	687	10	0
The Heir of the Lord Kinnoul	1,000	0	0	Perpetuity	500	0	0
Borne forward	—			—	31,401	12	11

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	£	s.	d.		£	s.	d.
Brought forward	—			—	31,401	12	11
To Charlotte Killegrew, on	200	0	0	Per annum	200	0	0
Anne Lawson	250	0	0	—	125	0	0
The Vicars of Lichfield	15	0	0	—	30	0	0
The Dean and Chapter of Lichfield	10	0	0	—	70	0	0
Susanna Leighton	100	0	0	—	125	0	0
St. Margaret's, Westminster	50	0	0	—	50	0	0
St. Martin's-in-the-Fields	100	0	0	—	100	0	0
The Executors of Francis Mansell	200	0	0	—	150	0	0
St. Michael's, Cornhill	12	4	0	—	30	10	0
Sir Samuel Moreland	600	0	0	—	600	0	0
Nicholas Nedham	120	0	0	—	30	0	0
Eleanor Nedham	300	0	0	—	375	0	0
The Duke of Norfolk	3,000	0	0	—	3,000	0	0
The Duke of Northumberland	3,000	0	0	—	4,500	0	0
Colonel Edmund Ogar	45	12	6	—	87	0	7½
The Earl of Oxford	2,000	0	0	—	2,000	0	0
The University of Oxford	13	6	8	—	30	0	0
The Countess of Plymouth	3,000	0	0	—	3,000	0	0
The Countess of Portland	1,000	0	0	—	500	0	0
Mrs. Pretty	20	0	0	—	5	0	0
The Queen Dowager	12,209	15	2	—	12,209	15	2
Capt. John Richards	200	0	0	—	200	0	0
The Duchess of Richmond	1,000	0	0	—	1,000	0	0
John Rogers	100	0	0	—	100	0	0
Mrs. Ross	60	0	0	—	75	0	0
Sir Gabriel Sylvius	300	0	0	—	375	0	0
Sir Charles Slingsby	40	0	0	—	50	0	0
The Duke of Southampton	3,000	0	0	—	3,775	0	0
Griffith Standen	20	0	0	—	5	0	0
The Earl of Sunderland's Assignee	1,000	0	0	—	1,000	0	0
Richard Sydenham	40	0	0	—	50	0	0
Elizabeth Slingsby	20	0	0	—	30	0	0
Mallet Slingsby	8	0	0	—	13	0	0
James Vosper	20	0	0	—	5	0	0
Captain Watkinson	18	5	0	—	22	16	3
Rachel and Frances Wyndham	200	0	0	—	100	0	0
					65,379	14	11½

1693.

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ACCOUNTS COMMISSIONERS.—General State, &c.—*continued.*

Page 36.

The PARTICULAR of the FREE GIFTS charged to be paid in the foregoing ACCOUNT of the ISSUES at the EXCHEQUER.

	£	s.	d.
To Peter Allix	200	0	0
John Bragnier, for the French Protestants	11,000	0	0
Willielmei Bunce	100	0	0
Mrs. Carliale	60	0	0
Mr. Carbonel	30	0	0
The Lord Capel	953	5	5
The Bp. of Chichester	200	0	0
The Marquess of Carmarthen	8,000	0	0
The Bp. of Cork	150	0	0
The Lord Culpeper	100	0	0
Jane Davis	100	0	0
Sir Edmond Doyley, in discharge of a Baronet's Fine	917	5	2
Sir John Duddlestone, for the same	1,095	0	0
Mr. Dymock	20	0	0
The Lord Eure	100	0	0
Bryan Fairfax	300	0	0
Anne Fitzharris	53	0	0
Capt. Goddard, Governor of Bermudas	200	0	0
Anne Goodman	30	0	0
Richard Harris	1,000	0	0
Elizabeth Heyford	100	0	0
The Countess of Inchiquin, for part of her marriage portion	1,000	0	0
The Lords Justices of Ireland	3,000	0	0
Colonel Kingsmil	50	0	0
Colonel Kingwell	25	0	0
The Lady Kirk	50	0	0
Mrs. Kirk	125	0	0
Mary Keys	20	0	0
Mrs. King	75	0	0
Mary Leech	10	0	0
Ruth Lesley	100	0	0
The Lord Lunsdon	100	0	0
The Lord Mordington	297	8	0
The Lord Morley	100	0	0
Borne forward	29,660	18	7

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	£	s.	d.
Brought forward	29,660	18	7
To Mrs. MacCarthy	75	0	0
Mr. Madox and other Clerks of the Council Chamber	200	0	0
William Oldham	20	0	0
Elizabeth Oxenden, for a marriage portion	2,000	0	0
Elizabeth Rabin	30	0	0
Barbara Roche	15	0	0
Martha Simpson	15	0	0
Sir Thomas Southwell	1,000	0	0
The Archbishop of Tuam	300	0	0
Lewis De Veile	50	0	0
The Poor Vaudois	377	2	8½
Susan Westcroft	10	0	0
Sir John Wentworth, in discharge of a Baronet's Fine	1,095	0	0
The Lord Willoughby of Parham	100	0	0
Elizabeth Willoughby	100	0	0
The Archbishop of York, to establish a Lecture at Southwell in Nottinghamshire	500	0	0
	35,548	1	3½

Endorsed as delivered at the Bar on Monday, 11th Dec. by the Secretary to the Commissioners for Public Accounts, L. J., XV. 319. [The House, on the 9th, had ordered the Commissioners appointed by a late Act of Parliament to examine, take, and state the Public Accounts of the Kingdom to send to the House, with all convenient speed, in writing, a state of the Public Accounts (*ib.* 318).]

765. Dec. 11. NAVY. 1693.

No. 765.

I. NAVAL MISCARRIAGES;
II. JACOBITISM; ABRAHAM ANSELME.

Papers connected with an Enquiry commenced this day into the late miscarriages at sea, viz^{t}. :—

—	When Delivered or Read.	By whom Delivered.	Paper.
			PART I.
(*a*)[1]	1693, Dec. 16	Turkey Company.	Turkey Company's Information (per Order of 11th inst.).
(*a*)[2]	„ „	„ „	Turkey Company's Petition to the Queen and Enclosures.
(*b*)	„ „	Admiralty -	Account of ships lost since 1 Jan., 1692.
(*c*)	„ „	„ -	Orders (65) from Admiralty to Sir Geo. Rooke.
(*d*)	„ „	„ -	Orders (85) and 2 Letters from Admiralty to Admirals of the Fleet.
(*e*)	- - -	- - -	Letter Book—Admirals to (1) Admiralty and (2) Sir J. Trenchard.
(*f*)	1693-4, Jan. 5	Mr. Coleing, Clerk of Council.	Papers laid before the Council relating to complaint of Turkey Company (53, with List).
(*g*)	„ „ 8	L. President -	17 Papers of the same nature, numbered consecutively with preceding, with List.
(*h*)[1]	„ „ 9	- - -	Council's Report of 3 Nov. 1693, about delay of Fleet.
(*h*)[2]	„ „ 9	- - -	Council's Report of 3 Nov. 1693, about Sir G. Rooke's proceedings.
(*h*)[3]	„ „ 9	- - -	Order in Council of 6 Nov. 1693, about Barbadoes ships.
(*i*)	„ „ 12	Mr. Priestman, Admiralty.	Letter from Sir J. Trenchard to Admiralty.
(*k*)	„ Feb. 12	Ho. Commons	Papers communicated at Conference reported on 15 Feb.
			PART II.
(*l*)	„ Jan. 2	Aaron Smith	Order to Smith to produce papers relating to Capt. Wall, and affidavits, &c., referred to.

[The King, in his Speech of 7 Nov. referred to the late miscarriages at sea, and recommended the House to make enquiry into the state of the Navy. L. J., XV. 295. The proceedings on this subject are as follows :—

PART I.—NAVAL MISCARRIAGES.

11 Dec. *Moved*, that the three Admirals, Killigrew, Delaval and Shovell, be sent for to attend, and to bring with them all the Orders they received for the last Summer's Expedition. *Moved*, to send to the Merchants to know how they were ready and stopped. *Moved*, that one Rutter attend. The miscarriage of the Main Fleet and the convoy to the Turkey Fleet. All the Orders that the Admiralty have given to

1693. — No. 765. the Admirals.§ An account of Rooke's proceedings and the Admirals' proceedings, and to hear the Turkey Company. To send for the Turkey Merchants. To send to the Admiralty what orders they have given, and whether other orders have been given to the Admirals or Sir George Rooke than by them. *Ordered*, that the late Admirals and Rutter stay in town. All such orders as were sent to Sir G. Rooke relating to the Smyrna Fleet,* men of war, or ships in His Majesty's service, have been lost this summer—when, where, and how?§§ *Moved*, that an Address be made to His Majesty, that he will be pleased to lay before them such proceedings as were in Council, or in the Committee of Council, in relation to the proceedings of the Admirals or Sir Geo. Rooke during the last Summer's Expedition.† *Ordered*, that Mr. Sotherne, Secretary of the Admiralty, attend on the 16th inst. (MS. Min.; L. J., XV. 319). *Ordered*, that the Turkey Company send in, on the 16th inst. informations of the proceedings of the Fleet under Sir G. Rooke.‡ *Ordered*, that the Admirals who commanded the Summer's Fleet send in copies of their Orders and their proceedings thereupon. *Ordered*, that Sir G. Rooke do the same (L. J., XV. 319).

13 Dec. *Ordered*, that Capt. John Cox, Captain of the tender which attended the *Britannia*, Capt. James Smith, Capt. John Brookes and Capt. Fox ‖‖ attend, and do not leave town till further order (MS. Min.; L. J., XV. 320).

16 Dec. Nothing recorded in MS. Min. or L. J. But the following Papers appear, from their endorsements, to have been received this day, viz^{t}.:—

Orders from Admiralty Board to the three Admirals.§
Orders from Admiralty Board to Sir George Rooke.*
Account of ships lost since 1 Jan. 1692.¶
Information of Turkey Company to House (pursuant to Order of 11th inst.).**
Petition of Turkey Company to Queen in Council with 6 papers annexed.††

29 Dec. House *moved* that some persons be summoned to attend when the day is appointed for the Admiralty. *Ordered* accordingly. The Orders of the 11th read, the Address to His Majesty, for papers. * * * * *Ordered*, that the three Admirals and Sir George Rooke attend to-morrow. *Ordered*, that it be intimated to the Lord Steward, that the House expects to-morrow his Majesty's Answer to their Address of the 11th inst. (MS. Min.; L. J., XV. 329).

30 Dec. [The Lord Steward reported his Majesty's Answer to the Address of the 11th inst., which is, that the Papers therein desired are before the House of Commons, and when they are returned, this House should have them.]‡‡ *Proposed*, to call in the Admirals and ask them some questions. *Agreed to.*

Question 1. Why you did not take care to inform yourselves whether the French Fleet was out, before you parted with Sir George Rooke's Squadron?

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* (*c*) † (*f*) and (*g*) ‡ (*a*) § (*d*) ¶ (*b*) ** (*e*)[1]

†† (*a*)[2] *Luttrell*, under date, adds that the Admirals attended the House this day, but were not called in.

‡‡ The words here in square brackets are struck through in MS. Min., and noted, "Agreed not to be entered."

§§ (*b*).

‖‖ In margin "at the Chequer in Lower Tha: street."

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No. 765.

Then the Admirals were called in, and the Lord Keeper, by order of the House, asked them the above Question.

Answer: We had positive commands to go to sea; we had Orders for it. We depended on the Council of War, and, if that had been pursued, this misfortune had not happened. For us to have gone with that Fleet on the shore with a north-west wind, we should have been inevitably lost, if the wind had arisen. Our order was positive to sail, without any regard to intelligence. We acted by the best of our judgments.

Sir Ralph Delaval: There was a ship sent to Brest, and that brought intelligence that the Toulon squadron was joined, which proved false.* I could not think any intelligence good but a squadron going into Brest; and, when we sent, our opinion was that we had orders to sail.

Question 2, asked: Had you any notice of the French Fleet being out, and at what time and by what means?

Answer: We had no certain intelligence that the French Fleet was out, until our return to Torbay. We had the notice from the Secretary of State. We had notice of a fleet of ships off Scilly; this proved to be Swedes and Danes there. We had no intelligence before the Order of 19 May gave us positive order to sail.

[*Question* 3: Why did you not sail after Sir George Rooke, to secure his Squadron, after you had notice the French Fleet was out?]†

Asked: Had you any intelligence by any way that the French Fleet was out, before you sailed?

Answer: We had some notice, but it proved false. No other then informed of the Toulon squadron.

The Clerk went out, and took their Answers to the Questions in writing. *Questions* proposed to ask the Admirals, viz^{t}.:—

1. Whether they were all three unanimous in not thinking it fit to send one or two ships to Brest for intelligence whether the French Fleet was out, and whether they asked the advice of the Council of War, whether or which way they should get intelligence of the French Fleet's being out?
2. Whether the Resolution of the Council of War of 22 May was sent to the Admiralty, and when it was first sent?
3. Why, after the Order of 19 May, they did not sail till the 30th?

The Admirals were called in and asked, Whether the whole result of the Council of War . . . ?:—

Answer: The most material part was sent presently; the remainder two or three months after. The winds were contrary until the 30th of May.

The Admirals were called in again and told that the House expects their answers in writing on 2 January.

Sir Ralph Delaval was called in by himself and asked whether all the three Admirals were unanimous in not thinking it fit to send two or three ships to Brest. A. I beg I may have the question read again. This question is answered in the [Resolution of] 15 May by that Council of War. In all these three things we three are but one. We were unanimous at the Council of War. I do not remember anything of that, whether, if a ship was sure to be lost, yet a ship ought to be sent. The best and most certain way we thought was, that the

* *See* Note to page 109.
† This Question is struck through.

1693. — No. 765. whole Fleet lie before Brest, and send in a squadron to see if the French Fleet were out. (MS. Min.)

Ordered, that Mr. Priestman and Mr. Sotherne attend on 2 Jan. and the witnesses also. Their names are given in L. J., XV. 330, as follows:—

First Order.

*Capt. Kerr.	Joseph Wealer.
*Lieut. Williams.	Robt. Kirkton.
*Lieut. Caning.	James Richmond, Lieut. of *Restoration*.
*Rice Studwell.	William Smy.
*Michael Wall.	Thomas Browne.
*William Bowell [Powell].	William Verrier.
*Thomas Hinde.	Robert Flatman.
James Cardwell.	Capt. George Sancloe.
William Easton.	Cory Hendres.
Edward Peake.	
Marke Carpenter.	

Second Order.

*Capt. Rutter.	Nicholas Barret.
*Major Churchill.	Mr. Johnson.
Capt. Cock.	Mr. Danberon.
Capt. Dover.	Capt. James Smith.
Alexander Long.	Capt. Fox.
Richard Martin.	Capt. Cooke.
Lewis Parker.	*Major Alston.
John Long.	*Daniel Cressells [Castle], mate to Rutter.
John Kent.	

2 Jan. 1693–4. *The Admirals* were called in, and at the Bar they delivered their Answers in writing,† and prayed that their Abstract of proceedings, formerly given in, might be read. They withdrew. Their Answers and the Questions were read at the Table. Then the first Question and Answer were read. Pages 5 and 6 of their Journal were read. *Memorandum:* That the Lords have read the pages, and desire to know what inferences they make thence. *E. Tor*[*rington*]: Those are proper stations and no others I know of. *L. Berk*[*eley*]: There it may be looked into from St. Mathew's Head. *L. Osborne:* From St. Mathew's Point one may see a fleet in Brest water; but if they are there, there will be a single ship or scouts out, not to let that ship come back.

The following Papers were read:—

Result of the Council of War of 15 May, 1693. [*In Margin:* Britannia Ship].

Order of Commissioners of Admiralty of 19 May. [*In Margin:* Admiralty.]

Result of the Council of War of 22 May, 1693.

Proposed, to ask the Admiralty why the Resolution of the Council of War of 15 May, 1693, was [not observed]‡ contradicted by the Order of 19 May? *Mr. Preistman* was called in and asked the said Question. He desired the Result of 15 May might be read. This and the Order of the 19th were read to him.

[*Answer*]: To the best of my memory, this Council of War did not come till long after the Order of the 19th.

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* These witnesses had been examined on 29 Nov. in the Commons, C. J., XI. 14.

† Pursuant to Order of previous day.

‡ The words in square brackets are struck out.

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Proposed: to ask Mr. Preistman at what time, and by whom the Resolution of 15 May was communicated to the Admiralty? *Mr. Preistman* was called in and asked the Question.

[*Answer*]: As I remember, it came from the Admirals in a letter of 30 June.

Q. Did it not come in May?

A. I have an extract of May, that demands all the results of the Councils of War.

Proposed to ask the Admirals, whether they delivered to the Lords of the Council the Resolution of the Council of War of 15 May, at Portsmouth?

Moved, for an Answer to the Address of the 11th inst. concerning Papers. *The L. Steward* acquainted the House with his Majesty's Answer to the Address of the 11th inst., viz^{t}:—That his Majesty says the Originals are before the House of Commons. A message was sent to the Commons to desire a Conference concerning matters relating to the last Summer's Expedition at sea, to-morrow. *Ordered:* An Address for Reports of the Council to his Majesty, relating to the detaining the Straits Squadron. and of the carriage of the Admirals relating to the said Squadron. *Ordered*, that the Commissioners of the Admiralty send for Daniel Cassells, mate to Capt. Rutter, to attend on the 4th inst. *Ordered*, that Mr. Preistman, Mr. Southerne and the Admirals attend to-morrow. *Ordered*, that all the Admirals' witnesses, who were ordered to attend this day, attend on the 4th inst. (MS. Min.; L. J., XV. 331).

3 Jan.—Conference had and reported as in L. J., XV. 332. . . . *Moved* that there having been an Address by the Lords with White Staves to his Majesty, that it be intimated to the White Staves . . . *Moved* to begin to know why the Order of 19 May contradicted the Resolution of the Council of War of 15 May. The Result of the Council of War of 15 May was read. Upon the matter of intelligence was the debate. *Moved* to adjourn this business till to-morrow. *Ordered* That the business be adjourned till the 5th inst., and that the Admirals, Mr. Priestman, Mr. Southerne and the Admirals' witnesses then attend. (MS. Min.)

4 Jan.—Message from the Commons for a Conference: House will send an Answer. (L. J., XV. 334.)

5 Jan.—*Moved*, That the Lords of the Admiralty give order that the persons summoned to attend should not lose their pay nor be pressed in the King's Service; that the Admiralty take care that William Verrier, of Sandwich, be summoned, and that those men who were ordered to attend here do not suffer by their non-attendance at the ships. *Ordered* accordingly, as in L. J., XV. 335. *Ordered*, that Mr. Preistman, Mr. Southerne, the Admirals, Sir G. Rooke and the other witnesses attend on the 8th inst. (*ib.* 335).

8 Jan.—House *moved* to go on the business of the day concerning the Admirals and Admiralty. *Moved* That Rutter be called in. The List of Papers brought from the King read. Mr. Rutter's Information read. *Mr. Rutter*, being called in and sworn, was asked what he knew or saw in respect to the French Fleet or any part of it being out at sea. He said he was freighted by Delavere. I demanded prisoners at Nantes, where I arrived on the last of March. They told me there were no prisoners there. I asked for their Majesties' orders. I sailed with currants for England 6 May. We turned the Foreland head 6th. We discovered ships with guns firing, and I said "Let us be gone." 8th we fell in with the Lizard. I met the Capper

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under Lizard. After, 9 day, I was taken by Capt. Carr and Capt. . . . I was carried in to the Spithead 11th May by Capt. Carr and Baker. I was commanded on board. Admiral Killigrew threatened me and said if the Parliament sat, I might have been hanged. Sir Cloudesley asked what news. Admiral Killigrew gave him a wink to come to him. I declared again to Sir Cloudesley what I saw of the French ships, 15 ships and 4 coming after, and guns firing as a signal of more coming out. [Asked] whether he met the *Mountagu*? He said he did not. I cannot say I ever saw her. Asked where he was when he saw the French ships and what time of day? 7 May, in the morning betwixt the Collier and Hen and Chicks, about sunrise. They were just coming [out] of Brest water. Q. Whether Capt. Carr was present when he gave an account to the Admirals. A. He was there four minutes. Q. How long he saw these ships and whether any of his ship's company [saw them]? A. I had my men sick. There were some taken from me by Capt. Carr that saw it. These two persons were on the deck and my Mate. Thomas Rich and Thomas Moody pressed by Capt. Carr. Q. Whether he spoke of it to his Mate and they. A. I did speak of it to my Mate. Capt. Carr pressed the two men; 13 or 14. Q. Was it before you acquainted the Admirals that the men were pressed? It was 2 or 3 days after. Q. What discourse he had with his Mate? *Daniel Cassells*, Rutter's Mate, was then sworn. I was Rutter's Mate. I saw about 14 or 15 ships coming out of Brest harbour on 7 May about sunrise and more firing. Q. What men were on the deck. A. There were two prisoners on the deck. I do not know whether they saw the ships. They must have heard the guns. The ships were in Camarett bay. We were under St. Matthew's point. The ships at anchor were in Camarett bay. Q. Whether he continued on his own vessel or the man of war? I was aboard my own vessel. *Rutter* was re-called and asked what persons he had to call to be heard? A. Cock was a tender on the *Britannia*, [and can speak to] what he said to him. Roger Moss and Major Churchill [can speak] to the French Fleet being out. Mr. Alsop [can speak] to what I said at Portsmouth, and my credit. Q. Who promised you the order of the King to justify your taking in currants. A. Francis Drake promised me this order, agent to Delaver. *Major William Churchill* was called in and sworn, and Rutter was told he was allowed to be present but not to speak. *Major Churchill* asked what discourse he had with Rutter in June last, 17th or 18th? A. I gave him instructions to give me an account of things. He told me he had been on board the Admirals and had given them an account of it. Q. What did you know of the currants? A. The owner agreed with me for so much per ton to bring them over. *Mr. Alston, Samuel*, (sworn): I never saw Mr. Rutter till he came to London. It was the latter end of June. He told me he believed about 15 men of war came out and that, by the guns, he believes there were more coming. Q. Did Rutter tell you where he saw them? A. I do not remember he did, but he said he had told the Admirals. *John Cock* (sworn): Q. What did you hear him say aboard the *Britannia*? A. He told me 14 or 15 sail of ships were riding just without Camarett. It was aboard the *Britannia*, in May. I suppose he was brought in by some of the frigates. Q. Where did Rutter hold this discourse? A. It was on the upper deck he told it me. It was before Rutter was with the Admirals. He said they were without Camarett. I understood him, just without. He only mentioned such a number of ships. The

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discourse was in passing by. *Roger Moss* (sworn): Q. What do you know as to the French Fleet? A. I was taken and carried into Brest 18 May. There were 60 odd ships riding just without Brest harbour, in Brest water; there were 3 ships without, which came in presently after. Q. Were those ships ready to go to sea? A. [On the] 15th day I saw some of them sail. When we were in Brest prison there was, as we heard, a small squadron come in, and [they] said they saw our great fleet and so came in. Q. What number of ships did that squadron consist of, and what force and when did they sail? A. I cannot tell where they saw the fleet. I was in prison. *Proposed* to call in the Admirals, which was done, and they were asked, out of Rutter's examination, what Rutter said to them concerning the French Fleet. *Admiral Killigrew:* About 11 May Capt. Carr brought in this pink and said he was laden with French goods. I reprimanded him. I asked him what news from Nantes. He said in coming home he saw some French ships; he believed they were Bretons. Not one word was spoken of the French Fleet. Q. Did he say anything of the French Fleet? A. He said no such thing. They all aver it. He told several the French ships were laid up. Q. Was Capt. Carr in the cabin? A. He was in the cabin all the time. He brought Rutter in. They say their witnesses are at the door. *Capt. William Kerr* (sworn): Q. Did you take Rutter? A. I did. I was in the *Britannia*. I was on board the *Britannia* all the time. He said he had come from Nantes, and that the French Fleet was unrigged, and would not be at sea this summer; that, as he came by St. Matthew's point, he heard guns, which he supposed to be a small squadron to convoy Bretons. Q. Were you cruising with 3 ships? A. I was. We chased a small ship. I never got within three guns' shot. I chased but could not get ground. Q. Did you give a gun to command those, the other ships, to stay? A, I never did. Q. Do you know anything of the two men you pressed? I turned them over to (*illegible*.) I pressed three men from him after he was delivered to the Prize officers. I pressed them after they were in the Prize office. *Capt. Jedediah Parker* (sworn): I was aboard Rutter half an hour before Kerr came. He said the French ships were unrigged, and that off St. Matthew's point he saw ships with some convoy, which he supposed were small Bretons. They were all laden vessels, he said. *Thomas Williams* (sworn): I was Lieutenant to Kerr. I was in discourse with Rutter. Rutter was under shore and I saw Rutter. He said the news was we need not fear our flesh; the French Fleet was laid up and unrigged. On 10 in the morning we came to anchor off the Isle of Wight. I went on board the *St. Vincent* fireship with Rutter. The news is the great French ships are laid up and some launched out. *Lieutenant Canning* (sworn): I found Rutter on board. I asked what news. Says he, "All is that you need not fear your bones this summer, for most of the French ships are laid up." *Lieutenant Rigman:* I was taken 7 May off (*illegible*). On 8 May I was carried into Brest. Three ships turned with me into Brest. I was examined before Shaterno and several French officers. They asked me how I liked the French Fleet. I said, Well. 9 and 10, I was examined by Tourville. I saw the fleet two or three times. 15, the fleet sailed out of Brest, and they were about 60 sail. Q. Did you see any ships in Camarett bay? A. I saw none in Camarett bay. I made it my business to look. Q. Did any sail in before the 15th? A. Not one. I being a Commission Officer was ordered there. The first day I went in, I had liberty to see all their batteries. *William Lucy* (sworn): I

1693. — No. 765. was taken by the French. I told 60 sail of French, and then I was carried to prison. I saw four ships go in with us. The great ship was at anchor. On the 8th day I saw all the Fleet in Brest Roads. *John Woodward:* There lay three ships out of the harbour, some small. I told 67 sail within Brest. *The Admirals* say the rest are only to the same purpose. *Robert Flatman* (sworn): I know Rutter. I was in company with him in Thames Street, and he was asked how he came off with the Admirals. He said the Admirals had outdone him by 9 votes, but, if he had outdone them, he had had a flag at least. *The Admirals:* We have several others to the same purpose. The Admirals withdraw. *Moved* to direct a prosecution against Rutter for perjury. Debate adjourned till to-morrow (MS. Min., 8 Jan.). *L. Steward* reported that he had waited on his Majesty with the Address of the 2nd inst., and that his Majesty's Answer was that the Reports should be sent, as desired (L. J., XV. 337).

9 Jan. *Moved.* That the stop be considered of the Fleet from 7 May to 30 May, to find where the fault is. Then the House went into Debate of the Expedition of sea the last summer. E. St. . . . A Paper read, entitled Report about the delay of the Mediterranean Squadron, dated 3 November (*h*)[1]. An Order of the King, 6 Nov. 1693, read (*h*)[2]. *Moved* to call in the Admirals and ask this Question. The Admirals' Answer was read out of the Paper in answer to the Question proposed to them. Council of War of 22 May read. The Admirals' letter of 22 May, 1693, read. Rep[t]. 3 Nov. relating to the Admirals of the Fleet to his Majesty (*h*)[2]. *Moved* that the Report of the Council . . . A letter of 30 June read. *Moved* to ask the Admirals why they did not transmit the whole Council of War, by which they sailed, to the Admiralty. *Proposed* to call in the Admirals and ask them why, if they thought the order impracticable and unreasonable, they did not represent it so to the Admiralty, and whether the Admiralty did communicate to them the instructions to Sir George Rooke. *The Admirals* were called in and asked:—The Lords observe, by the Council of War of 14 July, it was the opinion that the directions to Sir George Rooke were impracticable and unreasonable. Why was this not presented to the Admiralty before you sailed? From 22 to 30 May the Fleet continued at St. Helens. *Answer:* It was debated and discoursed, but by the Council it was not thought proper to do it, in respect to the Queen's Order and the Admiralty's. *Question:* Whether the instructions given to Sir G. Rooke were communicated to them? *Answer:* They were not. The Admirals withdraw; and after debate, further consideration of the business adjourned till to-morrow (MS. Min., 9 Jan.).

10 Jan. A Question asked the Admirals by the Council read, and their answer to it. 19 May, 1693. Order read, to Sir G. Rooke. 21 June, 1693, Mr. Secretary Trenchard's letter read. *Proposed*: That the Admirals who commanded the Fleet the last summer have done well in the execution of the orders they received. *Question* to Admirals: Why, when they had sent in the *Warspite*, and knew the French Fleet was out, they did not follow them? *The Admirals* were called in and asked the abovesaid Question. *Answer:* The *Warspite* said only he saw no ships, and we went to Scilly to see for them, and not finding them we returned to Torbay. The first question to the Admirals, to which they answered in writing, was read. After debate, the *Question* was put: Whether the House shall now adjourn? Resolved in the *Negative*. Then this *Question* was put: That the Admirals who commanded the Fleet the last summer have done well in the execution of the orders

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they received. Resolved in the *Affirmative*. [*Moved*, That Orders be given to Mr. Attorney-General to prosecute Mr. Rutter for perjury*] (MS. Min.). For Protest see L. J., XV. 339.

11 Jan. Leave given to Sir George Rooke to go out of town. *Moved*, That it be taken into consideration how it came into the Gazette that the French Fleet was out, and yet no notice was sent to the Admirals. *Moved* to call in Mr. Priestman and ask him, whether from the 25 of May and before the Fleet sailed, there was any intelligence sent to the Fleet that Monsieur Tourville was on board in order to sail, before our Fleet sailed? Sir John Trenchard's letter of 21 June read. A letter of 31 May, 1693, J. Trenchard to the Admirals of the Fleet. *Moved*, That an Address be made to his Majesty, that his Majesty, will give leave to the Lords of the Council to inform this House why the Council did not send advice to the Fleet of the French Fleet's being out. *Moved*, to send an Order to Mr. Attorney-General to prosecute Mr. Rutter for perjury. *Ordered*, That the debate be adjourned till to-morrow, and that Mr. Rutter and his witnesses may attend if they please. *Ordered*, That Mr. Priestman attend the house to-morrow with the Order on which they grounded their Order to the Admirals of 19 May, and that the Admirals attend to-morrow (MS. Min.; L. J., XV. 341).

12 January. *E. Rochester* reported his Majesty's Answer to the Address of yesterday, That his Majesty said: "I will consider of it, and give you an Answer." House moved to consider the Reasons in the Protestation of the 10th (*ib.* 339) entered yesterday. Allowed that there is a mistaken matter of fact in the 1st Reason. Agreed that the Lords who protested do review and alter their Reasons.† *Mr. Priestman* at the Bar delivered in the letter ordered yesterday (*i*). *Ordered*, That the Admirals and Captain Rutter attend on the 15th inst. (*ib.* 341).

15 Jan. King's Answer reported to Address of 11th inst., giving leave to any of the Privy Council, that are Members of the House, to acquaint the House when the intelligence of the French Fleets' sailing out of Brest was sent to the Admirals. After hearing some of the Lords of the Council, the House proceeded as follows:—[The *E. Nottingham* acquainted the House that he had a letter, as he the other day thought he had, 22 May, their style, 30 May, our style. The *L. Godolphin* and other Lords of the Council gave an account of the proceedings at the Council. *Moved*, that the letter or an abstract of it be had.‡] Message to Commons that the Lords agree to Conference desired by them: Managers appointed; Conference had, and report made by D. Bolton that the Commons had returned the Papers to the Clerk of the Council. *Moved* to adjourn the House · · · *M. Halifax* reported what was drawn by the Committee to be offered at a Conference, which was read and agreed to. (L. J., XV. 343. *In extenso.*) Message sent to the Commons to desire a Conference tomorrow; Managers appointed (MS. Min.; L. J., XV. 343).

16 Jan. Conference had, and reported by D. Bolton (*ib* 344), *Moved*, That Mr. Rutter be called in. Order of 11th inst. read, where-

* This entry in square brackets is struck through.

† The words "that, after their parting with him, he should steer such a course," in lines 3 and 4 of the first Reason, are written over erasures, and the passage appears to have stood originally "when they parted with him, to steer such a course" (MS. Journal).

‡ The words in square brackets are struck through. The letter is printed *in extenso* in the heads agreed on this day for a Conference, L. J., XV. 343.

1693. — No. 765. by the debate was adjourned for ordering him to be prosecuted for perjury. *Mr. Rutter* was called in and asked if he had any witnesses to confirm the evidence he gave on board the *Britannia* concerning the French Fleet's being out of Brest, which he declared at the Bar of this House:—I have no more than Daniel Castells. Asked how many men he had on board when he said he saw some of the French Fleet? I had twelve on board. There was none on the deck but my Mate and a boy. I had several sick. Two were pressed from me. Asked what he expected the two men that are present can say for him? The two men pressed were on the deck with me. I never saw them since they were pressed. The carpenter was carried aboard by Carr. Thomas Moody, Rich. Asked if any of these two pressed men were aboard the *Britannia* with him? There was none but myself. My Mate was pressed by Capt. Carr. Asked when he saw the ships, if he had any discourse with those that were on the deck? I said: Let us make away. *Moved*, to send to the Admiralty upon what account Carr was turned out. (MS. Min. 16 Jan.).

17 Jan. House was *moved* that some notice might be taken of the Protestation of the 10th inst. (L. J., XV. 339). *Ordered*, That all the Lords be summoned to attend to-morrow [upon the business of the Protestation of the 10th inst.]* (MS. Min.)

18 Jan. The House was *moved* that some alteration may be made in the Protestation of the 10th instant. That there is a thing stated in the first Reason that is not matter of fact—pursuant to the Order of the 19th May for sailing. *Agreed* to alter the 1st Reason. *Agreed* to alter 2nd Reason (It seems to us to imply). 3 Reason. 5 Reason, "an artificial excuse." Different from the greatest part of Europe. (*See* 7th Reason). (MS. Min.)

20. Jan. The Protestation of the 10th inst. was read. (MS. Min.)

1 Feb. [Leave given to the Admirals to go out of town]* (MS. Min.)

6 Feb. *Moved*, That a Message be sent to the Commons to put them in mind of what was delivered at a Conference. *Ordered*, That the Clerks search for precedents, whether the Commons have been put in mind of anything delivered at a Conference, and give the House an account to-morrow, and all the Lords summoned. (MS. Min.; L. J., XV. 360.)

7 Feb. Precedents reported by the Clerks (*ib.* 361). Paper delivered to the Commons at the Conference on 16 Jan. read. On motion, Committee appointed to prepare Heads for a Conference to remind the Commons of the purport of the last Conference . . . Heads reported and Agreed to (*ib.* 361-2). [*Ordered*, that the same Lords that were of the Committee shall be managers of this Conference with the Commons. Message sent to the Commons to desire a Conference on the subject matter of the Conference on 16 Jan. last.]* (MS. Min.)

8 Feb. Message sent to Commons to desire a Conference on the subject matter of the Conference of 16 Jan. last. Managers appointed. (L. J., XV. 362). Messengers return answer that the Commons will give a Conference, as desired. Conference had, and reported by D. Bolton (*ib.* 363).

12 Feb. Message from Commons for a Conference upon the subject matter of the last Conference. Agreed to: Managers appointed. Conference had and reported by E. Rochester. *Ordered*, That the full Report be made on the 14th inst. (*ib.* 366-7).

* These words in square brackets are struck through.

13 Feb. Full report of the Conference adjourned to the 15th inst. (*ib.* 367). 1693.

14 Feb. *Ordered*, That the Admirals be discharged from attendance until further order (*ib.* 368). *Ordered*, Report of Conference 11 o'clock precisely. (MS. Min.) No. 765.

15 Feb. Report of Conference of 12th inst. made by E. Rochester (L. J., XV. 369. *In extenso*). After debate, *Question* proposed: That the House is of opinion that, upon the intelligence delivered the 30th of May last to the Committee of Council by E. Nottingham (then Secretary of State) from a good hand, that Orders should have been sent to the Fleet, in pursuance of that intelligence. *Previous Question* put: Whether this Question shall be now put. Resolved in the *Negative*. Contents 16; Not-Contents 17. Tellers: L. Steward and E. Marlborough. *Ordered*, That the further debate be resumed on the 20th inst., and all the Lords summoned to attend (*ib.* 369-70. MS. Min.)

20 Feb. Further debate on Report of Conference adjourned to 26th inst. (L. J., XV. 375).

22 Feb. Further debate, &c., adjourned to 27th inst. (*ib.* 376).

27 Feb. House resumed the further consideration of the Report of the Conference, and the Question that was then proposed was read. *Moved* to adjourn the debate until 1 March. *Ordered* accordingly, and that all the Lords be summoned then to attend. (MS. Min.; L. J. XV. 379.)

1 March. Further debate adjourned till 3rd inst.; no other business then to intervene, and all the Lords to be summoned (*ib.* 382).

3 March. [The Order was read for further debate, and the Question which was then proposed being read, after debate,]* the debate let fall. (MS. Min.)

25 April. *Ordered*, That all Papers delivered to the Clerks from the Council Table or Committee of Council, Secretaries of State, or any other person, relating to the late Summer's Expedition at sea, be returned (L. J., XV. 425; MS. Min.).

PART II.—JACOBITISM (ABRAHAM ANSELME).

29 Dec. *Moved* to make an Address to the King that the Lord Nottingham† . . . (MS. Min.) *Ordered*, That Mr. Aaron Smith lay before the House on 2 Jan. two letters from Capt. Wall to Mr. Killigrew and Sir Ralph Delaval, Mr. Prade's Affidavit, Capt. Rome's Affidavit, the Admiral's letter to E. Nottingham upon that subject, and all other papers in his hands relating to that affair (*ib.*; L. J., XV. 329).

30 Dec. *Ordered*, That Capt. Peter Wall, Capt. Rome and Mr. Prade attend on 2 Jan. (*ib.* 330).

2 Jan. 1693–4. *Mr. Aaron Smith.* delivered in at the Bar the Papers, pursuant to Order of 29 Dec., relating to Capt. Wall.]

The Papers are as follows :—

PART I.

(*a*). 16 Dec. Papers (2) delivered in this day by the Turkey Company, pursuant to Order of the 11th inst., viz. :—

* The words in square brackets are struck through. No entry in L. J.

† E. Nottingham had delivered up the seals, as commanded, on 6 Nov., when the Admirals were also discharged from their Commission, and Sir G. Rooke removed.

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(*a*)[1]. Information of the Turkey Company to the House of Lords, as follows :—

To the Right Honble. the Lords Spiritual and Temporal, in Parliament assembled.

The Governor and Company of Merchants of England trading into the Levant Seas, in obedience to an Order of this most Honble. House, dated the 11th December, do most humbly lay before your Lordships such informations and proceedings as have come to our knowledge in respect to the fleet which was under the command of Sir George Rooke the last summer.

After several Addresses and Memorials to the Right Honble. the Commissioners of the Admiralty, and Petitions to their Majesties in Council for protection for our Turkey ships, and granting a sufficient convoy for transporting the woollen manufactures and supporting the honour and interest of the Kingdom in those parts, upon the 12th of April 1692 we made an Address to the Lords of the Admiralty, that our ships might depart in May ; whereunto they gave us a verbal answer that, if we would be content to stay until the Royal Fleet were out, and would petition Her Majesty that our ships might go out by the end of June, or beginning of July, they would assist us therein. But from that time we were delayed until the 5th of September, and after that, to the 10th November, and so from December to January, February, March and April, notwithstanding the frequent verbal applications we made that their departure might be hastened, whereas in any of those months we might have proceeded with all probable safety and security ; and yet we were still further delayed and put off untill the 30th of May, and then sailed along with the Grand Fleet, but with the same Squadron only for our protection and convoy which was ready in December before, notwithstanding the several intimations of the French Fleet's being put to sea, that were not only given to the Admirals whilst at the Spithead, but published here in London several days before their departure, as appeareth by the following instances :—

1. John Rutter (to the best of our remembrance) gave evidence to the Right Honble. the Lords of the Committee of Council, that about the 11th day of May he was on board the *Britannia*, where the three Admirals were all present, and informed them that, about the 8th of May, he saw part of the French Fleet come out of Brest waters, and heard the salutes of others coming out after them.

2. A letter from Brest, written by a French captain of one of their ships of the line of battle, dated the $\frac{8}{18}$ of May, giving advice that a considerable part of the French Fleet was then out of Brest, and the rest coming out, was carried up and left with the Lords of the Council soon after Rutter's examination, whose evidence was thereby strengthened and confirmed.

3. That not only several foreign Gazettes, but our own, did publish the forwardness the French Fleet were in to sail about the $\frac{1}{2}\frac{8}{8}$ or $\frac{1}{2}\frac{2}{2}$ of May,* and that they did sail the $\frac{1}{2}\frac{6}{6}$ May, so that it is manifest this was publicly known before the departure of our Fleet.

4. Thomas White (or Waite),† Commander of an English ship gave information before the Committee of the Privy Council (to the best of

* A marginal note here adds "*Vide* London Gazette of the 1st June." A letter from Paris in that Gazette states as follows : "From Brest we have advice that the French Fleet, commanded by M. de Tourville, sailed thence on the 26th of last month, and from Toulon they write that the Count d'Estrée, who was forced back by the contrary winds, sailed again on the 14th past, with the squadron under his command."

† See (*f*)[34] (*f*)[35] (*f*)[36].

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our remembrance) to this effect, that, being at Marseilles, he heard in common and ordinary discourse amongst the merchants there (six weeks before the unhappy accident at Lagos Bay) the Mediterranean fleet was not to come out till our Grand Fleet should sail, and that then they were to conduct them 50 or 60 leagues to the westward, and afterwards they were to proceed with their convoy of 20 men of war into Lagos Bay, and there to be delivered up to the Grand Fleet of France.

5. Their Majesties' ship, the *Restoration*, Capt. Hoskins, Commander, being one of the headmost in the Royal Fleet, meeting some Swedes and Danes about the 2nd June between Plymouth and the Land's End, a boat was sent on board them, to whom they gave an account that, some few days before, they met off the North Cape about 25 to 30 sail of French men of war, besides fireships and tenders, standing to the southward.

6. The Captain of the *Germoon Prize* * brought an account to Plymouth or Falmouth, that he had seen the French Fleet at sea, and this intelligence came hither by an express before our Fleet sailed.

It has also been reported that the *Adventure* frigate (one of our Grand Fleet), being in cruising, took a French prize, by whom the Captain was informed the French Fleet was out, and that he gave the Admirals an account thereof before they sailed from the Spithead.

In relation to what happened after the separation of the Mediterranean fleet under the command of Sir George Rooke, we humbly lay before this most Honourable House several Queries, which (after several hearings and examinations of Sir George Rooke before the Committee of Council, several Commanders of Merchantships that were in the fleet being present) were given in writing to Sir George Rooke, whereunto he returned his Answer to the Council; a copy of which Queries, with Sir George Rooke's Answer, was sent to Capt. Braddyl and Capt. Cotterell, who made their Reply to his Answer upon oath to the Council; which Queries were as follow, viz. :—

[Here follow the 12 Questions given in (*f*)[41] below.]

Upon the whole matter of the said Queries, the Answers and Replies, it appears to us:

1. That there was no Council of War called by Sir George Rooke, nor Consultation, upon the separation of the two fleets.

2. That the signal for the separation was on the 4th day of June.

3. That on the 5th of June they saw 55 sail of ships about 4 leagues distant from them, with whom they might have spoken to gain intelligence, but did not endeavour it.

4. That Sir George Rooke did not send into any part of the coast of Portugal to get intelligence, although he sailed within 25 leagues along the coast, where he might have had sure advice of the French Fleet's having passed by.

5. That upon the 16th June, when they were short of the South Cape, he discovered 8 to 10 great ships of the enemy's scouts, but did not make a due use of such a plain intimation of an apparent danger, but made a press sail all that night to get about the Cape.

6. That upon the 17th June, about five in the morning, a French fireship was taken, whose Captain gave the Admiral an account that the French Grand Fleet was in the Bay. Upon the same day also, at 8 o'clock in the morning, a Portuguese boat came on board the Admiral, and the men were examined and informed Sir George Rooke that Tourville, with the Grand Fleet of France, was in the said Bay, at

* "Plymouth, 10th May. Last night the Germoon spy boat came in from cruising near Brest, and brought with them a French fisher boat, the men of which say that on the 25th instant near 50 sail came into Brest, some of them men of war, from Rochefort and Toulon." *Luttrell* (16 May) iii 98-9.

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which very time there were 70 to 80 sail of the enemy in sight; and if Sir George Rooke, instead of bearing down upon the enemy, had then stood to sea, he might have gone safely off with the whole Fleet; and if he had the least doubted of the truth of these informations, being then within two leagues of the shore and a calm sea, he might have sent ashore, and within two hours have had full assurance the whole French Fleet was there.

7. That several great buoys were seen by our fleet in Lagos Bay, which was also an intimation that several great men of war had been at anchor there.

8. That the merchant ships had no orders, in case of meeting with an enemy, what course to take, but only sailing orders, wherein was only inserted that, if they did separate by bad weather, they should rendezvous at Cadiz; but when they came afterwards to the Madeiras, he gave the ships with him orders what to do, in case they met with an enemy.

9. That if Sir George Rooke had given due orders, and carried out a light the night before he retreated from the French Fleet, we presume the four Turkey ships, which were afterwards sunk at Gibraltar, might have kept him company, or at least have been safe, if he had made good their retreat with his men of war in the rear, as we conceive he ought to have done, the said four ships being in sight of him about 10 of the clock at night, and only two or three French men of war pursuing.

For a more clear and perfect account of these matters we refer ourselves to the Reply of Capt. Cotterell and Capt. Braddyl, given upon oath (and the other Examinants) before the Right Honble. the Lords of the Committee of Council.

Endorsed: "Received this 16 December, 1693, from the Turkey Company (1)."

(*a*)[2]. 16 Dec. 1693.—Copy of Petition of 27 July, 1693, of the Turkey Company to the Queen in Council, with papers annexed. Identical with Papers (*f*)[2] to (*f*)[8] below.

Endorsed: "Petition of the Turkey Company. Received this 16th December, 1693, from the Turkey Company (2)."

(*b*). 16 Dec.—An Account of what men of war and other ships in their Majesties' service have been lost since the 1st of January 1692, at what time, at what places, and in what manner.

Rates.	Ships' Names.	At what Time Lost.	Where Lost.	In what Manner.
6	Tartan Prize, Advice Boat.	13 Jan. 1692 -	French Coast -	Taken by a French Privateer.
5	Spy, Fireship - -	13 Jan. 1692 -	Portsmouth -	Burnt by accident.
6	Scarborough, Ketch -	12 Jan. 1692 -	On the Coast of Ireland.	Taken by a French Privateer.
5	Mermaid, Fireship -	25 Feb. 1692 -	Plymouth -	Burnt by accident.
6	Windsor Castle - -	28 April 1693 -	Southsands Head.	Ran on the Sands and was wrecked.
6	Eaglet, Ketch - -	23 May 1693 -	Isle of Arran in Ireland.	Taken by a French man of war.
6	Sun Prize - -	1 June 1693 -	Off the North Foreland.	Taken by four French men of war.
6	Harp, Ketch -			
4	Diamond - -			
5	Cygnet, Fireship -	20 Sept. 1693 -	Off Cape Clear in Ireland.	Taken by two Frenchmen as they coming from the Barbadoes.
5	Vesuvius, Fireship -	19 Nov. 1693 -	At St. Malo's -	Burnt in service against the town.
	Friendship, Pink, hired to carry stores to Portsmouth.	8 Sept. 1693 -	Off the Isle of Wight.	Taken by a French Privateer.

Admiralty Office, 13 Dec. 1693.

Noted: Received this 16 December 1693.

(*c*). 16 Dec.—Copies of Admiralty Orders to Sir George Rooke. Paper Book, *endorsed* as received this day, contains 65 Orders dated between 13 Feb. 1692–3 and 19 May 1693. They are signed by the following Commissioners, viz.: 1693. — No. 765.

J. Lowther, all but 9 to 15, and 40 and 41.
R. Onslow, signs only 1, 9, and 14.
Lord Falkland, all but 9, 19 to 22, 24 to 28, 30, 42, 43, 51 to 53.
R. Rich, all but 9 to 12, 14, 16, 18 to 29, 36, 39, 44 and 45, 58 to 65.
H. Priestman, all but 1 to 3, 17, 29, 31, 36 to 39, 43, 51 and 52.
Robert Austen, all but 1 to 8, 16, 30, 31, 42, 43, 47, 48, and 58.
J. Sotherne, the Secretary, countersigns 1 to 4, 10, 11, 14, 16 to 22, and 24.

They relate to the following Heads, viz. :—

I. Composition and Movements of Straits Squadron.
II. Convoys, viz.:
(1) *Various.*
(2) *Virginia Fleet.*
III. Particular Service.
IV. Cruisers.
V. Crimes and Offences.
VI. Appointments and Promotions.
VII. Manning the Squadron.
VIII. Repairs.
IX. Miscellaneous.

I.—Composition and Movements of Straits Squadron.

20 Feb. 1692–3.—Instructions for Sir G. Rooke, Knt., Vice-Admiral of the Red, and Commander-in-Chief of their Majesties' ships in the Mediterranean.

1. You are hereby required and directed to take under your command their Majesties' ships and vessels named in the margin—

[i.e. *Royal Oak*, *Bredah*, *Monmouth*, *Lion*, *Monck*, *Woolwich*, *Chatham*, *Newcastle*, *Tiger Prize*, *Lumley Castle*, *Loyal Merchant*, *Princess Anne*, *Sheerness*, *Smyrna Factor*, *Lark*, *Despatch*, brigantine, *St. Vincent*, fireship, *Vulture*, ditto, *Salamander*, bomb vessel, *Muscovia Merchant*, store ship],

which are appointed for service in the Mediterranean (the respective Commanders whereof are hereby required to obey your orders), and you are also to take under your care and protection such merchant ships of their Majesties' subjects (which shall be ready to sail with you) as are bound to Turkey or any port in Spain or Italy; and with the first opportunity of wind and weather, you are, with their Majesties' said ships, and such Dutch men of war as shall be ordered to accompany you and be under your command, to proceed with them into the Mediterranean; and when you shall arrive at the South Cape, you are to send the *Tiger Prize* and *Smyrna Factor*, along with the merchant ships bound to Cadiz, Malaga, Alicante, Majorca and Barcelona, giving orders to their Commanders to convoy them in safety to their several ports,

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without staying at any port till they arrive at Barcelona, and that they continue there ten days and no longer, and take under their convoy such merchant ships of their Majesties' subjects homeward bound, as shall be ready to come away within that time, and then call at Majorca, Alicante, Malaga and Cadiz for such as shall be ready to come from thence, within two days after their arrival at each port, beyond which they are not to stay at any of the said ports except Cadiz, where they may stay ten days, and return with them to England, and when they come off Plymouth, to send in there to enquire for orders and intelligence, and if they find no orders to the contrary, then to come to the Downs and there expect further orders, seeing the merchant ships bound to any of the Western ports safe into their ports as they come along.

2. When you shall have sent away the said two ships as aforesaid, you are with the rest of the Squadron under your command, together with the Dutch, to proceed with the ships bound to Turkey as high within the Straits as you shall judge fitting, using all means to gain intelligence of the enemy, and then you are to detach from your Squadron, and send with them such number of ships for their convoy as, upon the intelligence which you shall have received of the motion and strength of the French ships in the Straits, you shall judge fitting for their security, ordering particularly which of them shall convoy those bound to Scanderoon, and which those to Smyrna, and appointing who shall command them while they shall be together, and who shall command each convoy when they are apart, for preventing any dispute therein.

3. You are to order the Commanders of the ships which you shall appoint for convoying the Turkey ships, to proceed on that service according to our particular orders to you upon the proposals made to this Board by the Turkey Company, ordering the ships which you shall, in pursuance thereof, appoint to convoy the ships to Smyrna, to see the ships bound to Constantinople safe within the Castles of the Dardanelles, as likewise to take care of them in their return back to Smyrna.

4. You are also to order the Commanders of the Convoys which you shall send to Turkey, not to block up the Grand Seignior's ports, but that enemies' as well as friends' ships be permitted to pass into and out of the said ports without any molestation, and that, in case they shall take any prizes, wherein are either the persons or goods of any of the Grand Seignior's subjects, the persons so taken be well treated and put on shore, and the goods restored without embezzlement at the first port in the Grand Seignior's dominions, taking a hogiet from the Cadi of the place for the same.

5. When you shall have sent away the Convoys with the Turkey ships, according to our aforesaid Orders, you are then, with their Majesties' ships that shall remain with you, together with the Dutch, without any loss of time, to proceed to such place which you shall judge most proper, in order to join the Spanish fleet of men of war in the Straits, and then, in conjunction with them, in case you shall have sufficient strength, to look out for the French Fleet, according to such intelligence as you shall gain of their motion, and, upon meeting with them or any of their merchant ships, you are to endeavour to take, burn, sink or otherwise destroy them.

6. You are to continue with the ships under your command in such stations in the Mediterranean as shall be most advantageous for doing service on the enemy and protecting the trade of their Majesties' subjects and their allies in those seas until towards winter, when the Turkey

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ships with their Convoys are to return, and then you are to repair unto the place which shall be appointed for their rendezvous, and join them and return with them to England, calling in your way at Cadiz for such merchant ships of their Majesties' subjects as shall be ready to come from thence, and likewise sending some of your Squadron to any other ports in Italy or Spain to call for any English merchant ships homewards bound, which you shall have advice are ready to come away from thence; and, when you shall arrive off Plymouth, you are to send in there to enquire for orders, and, if you find none there for you, then to come to the Downs and there expect further orders, sending us notice of your arrival.

7. You are, while you shall be in the Mediterranean, at such time as may be most convenient and the service may best spare them, to send two or three of their Majesties' ships under your command to appear before Algiers, Tunis and Tripoli, in order to the preserving the peace with those Governments, and for transacting such matters there for which you shall have directions from his Majesty, and you are also to order the receiving on board some of the ships under your command at Portsmouth such ordnance stores, designed for Tripoli, as are by the King's orders to be sent thither.

8. And whereas the King of Spain has ordered agents to Port Mahon, Porto Longone and Carthagena, to take care that whatsoever their Majesties' ships shall have occasion for there, shall come Custom free, and to assist them upon any other occasion, you are, according as it shall be consistent with the service you are employed on, to make use of these ports for supplying the ships under your command with what they shall be in want of, and to make application to the said Spanish Agents for their assistance therein.

9. When you shall be out of the English Channel, you are to put the ships' companies of the Squadron under your command unto short allowance of victuals, either of six to four men's allowance or otherwise, as you shall judge fitting for lengthening out your victuals, causing the men to be paid for the same as is usual out of the moneys or credit which will be put into your hands by the Commissioners of the Victualling.

10. You are to observe and follow such further orders and instructions as you shall receive from the King's Majesty.

11. You are from time to time, by all opportunities which shall present, to send to this Board an account of your proceedings in the execution of these and all such other orders which you shall receive, and of all occurrences which shall happen.

12. So soon as you shall be out of the English Channel in your voyage outwards bound, you are to wear the Union Flag at the main top-mast head, and to continue so to do until, in your return, you shall be again arrived in the Channel.

13. Lastly, in case of your death or disability by sickness, Capt. Thos: Hopson, Commander of their Majesties' ship Bredah, and in case of his death or disability, the eldest Captain which shall be then remaining in the Squadron, is hereby required and empowered to take upon him the charge and command of the Squadron, and to execute these and such other orders and instructions, which you shall have received, or such part thereof, as shall then remain unexecuted.

22 Feb.—Notwithstanding his Orders of the 20th inst., he is to continue at Spithead with his Squadron till further Orders,* but to keep

* "Our Straits fleets have orders to continue at Spithead till our Grand Fleet takes the sea, which wants 5 or 6,000 seamen of its full complement."—*Luttrell* (9 March), iii. 51.

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7 March.—With reference to his letter of 25 Feb. desiring orders what to do, in case he got certain intelligence, before entering the Straits' mouth, that the enemy is very strong in the Mediterranean, and that they are posted in a station likely to intercept him, whether to proceed, or go into Cadiz, send notice home, and stay for further orders, the Board have acquainted his Majesty, whose pleasure it is to leave him to act in such case as he shall judge best, upon the intelligence he shall gain of the enemy, without expecting orders from England. As to his enquiry what Flag he is to wear on his return into the English Channel and striking the Union Flag, as he is ordered by his Instructions, he is then to hoist the Flag of Vice-Admiral of the Red, which he now wears.

16 March.—Pursuant to the King's pleasure signified to the Board, he is to proceed, with the first opportunity of wind and weather, into the Mediterranean with his Squadron and the ships of the States-General, according to his Instructions already received, taking under his protection the Virginia ships, &c. [See CONVOYS and CRUISERS.]

18 March.—Notwithstanding any former Orders for proceeding directly with his Squadron into the Straits, he is to call in at Cadiz, and remain there 20 days for loading and unloading the merchant ships, and then put in execution his Instructions, governing himself, in departing from Cadiz into the Straits, by the advice he shall receive of the motion and strength of the enemy, according to the liberty given him by the Orders of the 7th inst.

20 March.—To proceed to the Mediterranean, with the first opportunity, according to former Orders, without staying for the storeship or bomb vessel, if they shall not have joined him.

23 March.—Pursuant to King's pleasure signified to the Board by E. Nottingham, he is to continue with his Squadron at Spithead until further order.

12 May.—To take care that his Squadron for the Mediterranean be in constant readiness to sail, on the receipt of orders, and have all provisions and stores necessary for the service.

12 May.—Pursuant to Queen's pleasure signified to the Board, he is to follow such orders as he shall receive from the King and Queen for proceeding with his Squadron.*

16 May.—The Board being informed, by his Letter of the 12th inst., that the *St. Vincent* fireship is unfit, from leakiness, to proceed to the Mediterranean, but may possibly be of service in the Fleet this summer, he is to apply to the Admirals to appoint one of their ships instead, if they shall think the *St. Vincent* may be serviceable in the Channel.

[See MAIN FLEET (COMPOSITION) *Fireships*].

19 May.—Pursuant to Queen's Command signified to the Board, he is, with his Squadron and the merchant ships under his convoy, bound for the Mediterranean, to sail, at the first opportunity of wind and weather, in company of the Fleet now at St. Helens, and proceed so far with them as the Admirals of the Fleet shall direct, and, while in their company, to follow the said Admirals' orders, and, when he parts with them, to steer such course in his passage to Cadiz as they shall direct, and then to proceed according to his former Orders from the Board.

* The same Order (pursuant to Queen's pleasure signified by "Sir J. Trenchard") was given to the Admirals on May 1. [See MAIN FLEET (MOVEMENTS).]

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II.—Convoys.

(1) *Various.*

(*Great Tuniseen*):

13 Feb. When sending away any of his Squadron before Tunis, he is to take care for convoying thither the English merchant ship, *the Great Tuniseen*, bound to that place.

(*Spanish Store-ships*):—

17 Feb. Pursuant to King's pleasure, signified to the Board at the desire of the Spanish Ambassador, he is to convoy 2 pinks from Cadiz to Port Mahon, with stones (*sic*) for the Spanish Fleet at Naples.

(*Hamburgh Ships*):—

4 March. To take under his protection such ships belonging to Hamburg, as shall join him at Spithead and be ready to proceed with him, when he sails from thence, and convoy them as near to their respective ports as can be done without hindrance to his other services.

20 March. Pursuant to Order in Council of 2nd inst., he is, when sailing as lately ordered, to take under his care such of the Hamburg ships as are bound his way and ready to sail, and convoy them as far as their way shall lie together.

(*Ships for the Downs*):—

13 April. In answer to his letter of the 11th inst., stating that several masters of small vessels have lately applied to him for convoy from Portsmouth to the Downs, he is to appoint such convoy for them from his Squadron as he shall think fit.

(*Portugal Ships*):—

25 March. Whereas Capt. Tho: Gillam, of the *St. Albans*, was ordered on the 6th inst. to take the *Defiance*, *Warspite*, *Bonadventure*, *Mary* Galley, and *Etna* fireship, and convoy certain merchant ships to Portugal, and on arriving off that coast to detach the *Defiance*, *Warspite*, and *Etna* fireship to convoy such ships as were bound to Oporto and the smaller ports, and then return to Spithead, whither the *Defiance* and *Warspite* accordingly returned on the 21st, as appears by letter (copy enclosed) of Capt. Gourney, who commanded them, and whereas it is proper to know whether Capt. Gourney did his best to obey Capt. Gillam's instructions, he is to enquire of Capt. Gillam and report to the Board.

(2) *Virginia Fleet.*

16 March. To proceed to the Mediterranean, taking under his protection the Virginia ships and their convoys, as far as he can without hindrance to his other services, and also any other merchant ships bound that way and ready to sail, except such as are bound to the Bay of Biscay.

29 March. Pursuant to King's pleasure signified to the Board, he is to appoint 6 of his Squadron and a fireship, together with 4 Dutch ships, to join the convoy for the merchant ships bound to Virginia, and proceed with them without loss of time on their way thither, until they come to about 30 leagues beyond Scilly, and then return to Spithead.

29 March. By desire of the King, none of the said 4 Dutch ships shall be those designed for the Straits.

4 April. Pursuant to King's pleasure, the said 6 English and 4 Dutch men of war are not to proceed until further order.

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8 April. With reference to above Order he is to stop the *Foresight* and the hired ship *Archangel*, the convoys for the said Virginia ships, from proceeding from Spithead till further order.

18 April. The *Foresight* and *Archangel* are to execute their orders as soon as joined by such ships as the Admirals of the Fleet will appoint to see them safely out of the Soundings.

19 April. To order the Commander of the Squadron appointed to see the Virginia ships out of the Soundings, to take under his protection the *Prince of Denmark*, *Royal James and Mary*, *Armenian Merchant* and *Hawk*, bound to the East Indies, if any of them shall come to Spithead before he sails, and see them in safety as far as he can, without hindering the execution of his orders for accompanying the Virginia ships.

28 April. To send one of the ships, ordered to see the Virginia ships out of the Soundings, to the Western ports, before the convoys bound to Virginia leave Spithead, in order to their getting ready to join the convoys on their passage to the Westward.

III.—Particular Service.

(*Main Fleet*) :—

23 Feb. The *Berwick*, *Northumberland*, *Edgar* and *Mary* being designed to be sent to sea presently upon service, he is to have them furnished with the necessary men and stores, and also with victuals, to complete what they have to 2 months, out of any other of their Majesties' ships at Portsmouth and Spithead that can best spare them, except those designed for the Mediterranean. [These ships were to form part of the Main Fleet. *See* Order to Admirals of 18 March.]

(*Rear Admiral Aylmer*) :—

23 Feb. Rear Admiral Aylmer having been ordered out to sea with a squadron from Spithead upon a secret service,* Rooke is, in order to

* March 4. "20 men of war at Spithead are weighed anchor and stood westward, but not said whither sailed; believed to intercept a fleet of Swedes and Danes. On Thursday last the Council had the affair of the Turkey fleet under consideration, and came to a final resolution. Said orders are sent to the lords of the Admiralty for 20 men of war to put to sea, which is the above said squadron." (*Luttrell*. iii. 48.)

March 7. "From Plymouth of 3rd wrote that admiral Aylmer was come before that place with 15 men of war and 2 fireships, and was joined by 6 more English and 2 Dutch men of war; and the Bilboa fleet took the opportunity, and sailed under their convoy westward, being 40 merchant ships." (iii. 49.)

March 7. "Aylmer, [Aylmer] after seen the Straits fleet past the soundings, goes on some other design." (iii. 51.)

March 9. "18 French men of war are now cruising 20 leagues on this side cape Finister, supposed to be waiting for our Bilboa fleet, who were to be convoyed but by 4 men of war, but now admiral Aylmer with 20 men of war is to see them out of danger." (iii. 51-2.)

March 11. "Admiral Aylmer, with the squadron under his command, is forced into Torbay by stress of weather; the Hampshire much damaged; and most of the Bilboa fleet are come in also; orders are sent hence to hasten them again to sea" (iii. 52.)

March 16. "Admiral Aylmer is still in Torbay with the Bilboa fleet; and 3 or 4 of the men of war that received damage in the storm are returned to Spithead to refit." (iii. 55.)

March 21. "Portsmouth, 18th, wrote, admiral Rook has received orders to sail with the Straits fleet; and is to call on admiral Aylmer in Torbay, who is to assist in convoying them part of the way; the Bilboa voyage is for the present laid aside." (iii. 58.)

May 18. "The Straits fleet, Turkey and Bilboa fleets, go along with the grand fleet, and make in all about 7 or 800 sail." (iii. 101.)

—— *See* further as to Bilboa fleet under "Admiralty Orders to Admirals."

prevent any notice being taken of the squadron's going abroad, to go on shore forthwith, and continue there until they shall have sailed, upon such pretences as he shall judge most proper for keeping the matter private. 1693. — No. 765.

(*Rose* fireship) :—

3 April. To order the *Rose* fireship into Portsmouth harbour, for employment in the same manner as formerly.

IV.—Cruisers.

(*Various*) :—

6 March. The Board having been informed by his letter of yesterday to their Secretary, that a fleet of the enemies' ships, that came laden from St. Malo's and bound to the eastward, are at Sherbrook, and that if a frigate or two with some small vessels were sent over to the French coast, to lie off Havre-de-Grace or Boulogne, they may probably do considerable service in intercepting them, he is forthwith to send the *Plymouth*, *Crown*, *Adventure*, and *Saudadoes Prize*, together with the *Goodwin* sloop, or any other small vessel now at Spithead, to cruise so long as he shall judge convenient, either off those two places, or on such other station as he shall think best for the purpose, and then return to Spithead for further orders.*

5 April. To order the *Goodwin Prize*† to be got ready for sea with all possible despatch, and cruise between Ushant and the Isle of Wight, so as best to discover the enemy's proceedings, with directions to her commander to call in at Spithead once in 6 or 8 days, and after reporting his proceedings to the Board and the chief Flag Officer there, to return to his station, and, if he discover a fleet of the enemy's ships, to repair at once to the nearest port, and there remain, after sending an account by express as before.

11 April. In answer to his letter of the 10th inst., desiring the Board's consent to his keeping 2 or 3 frigates constantly cruising off the Isle of Wight, and between that and Portland, for the greater security of their Majesties' ships and the merchant ships at Spithead, he is to appoint such ships of his Squadron as he shall think fit for that service.

23 April. The enclosed information having been received concerning a vessel now at Rye, laden with butter and cheese from Ireland, which is suspected to be bound for France, he is to send immediately a ship or vessel into Rye Bay, with orders to the Commander to cruise off thereabouts in such manner as shall be best for intercepting the vessel, and may give the least suspicion of his intentions ; and, on seizing her, when coming out, to search for, and to secure until further orders, any persons or papers on board her, sending an account to the Board, and keeping these orders private.

(*Hampshire ; Mary*) :—

16 March.—To direct the *Mary* and *Hampshire* to remain at Spithead till further orders.

21 March.—To order the Commander of the *Hampshire* to convoy to Jersey the *Reserve* of Poole (Francis Hennings, master), bound thither from Portsmouth with workmen and materials, and then sail

* For orders to *Plymouth*, *Crown* and *Adventure*, *see* (*d*) 18 April.

† "Weymouth 19 ; yesterday came in here the Goodwin sloop from cruising, who the day before met with 3 French men of war, about 8 leagues from Portland, and fired several guns after him, but did him no hurt ; notice sent to the Lords of the Admiralty." *Luttrell*, 22 April (iii. 83).

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18 April.—Capt. Wm. Hughes, of the *Hampshire*, having, by his letter of the 14th inst., given an account that on the 2nd inst. he met with a French man of war, of between 60 and 70 guns, from which he bore away, but she, outsailing him, came up and engaged him about 3 hours, and then bore in for the shore, her foretopmast being disabled, upon which Capt. Hughes left her, Rooke is to have the matter strictly enquired into at a Court Martial.

26 April.—To give leave to Capt. Hughes of the *Hampshire*, as soon as the above enquiry shall have been made, to come to town, as he desires, for 10 or 12 days, to look after his private affairs.

V.—Crimes and Offences.

(*Sheerness*) :—

6 March.—To have a Court Martial held to enquire into the alleged embezzlement of stores by Robert Goslin, Boatswain of the *Sheerness*, affidavits as to which are enclosed.

8 March.—To make enquiry as to Depositions (copies enclosed) against the Lieutenant and Gunner of the *Sheerness*, that they took out all the men from the *Rose* pink of Plymouth, bound to Swansea with unquenched lime, &c., and that thereupon she took fire, for want of hands to stop a leak sprung when the men were taken from her.

(*Foresight*) :—

11 March.—To enquire into a complaint made by Capt. Isaac Townsend, of the *Foresight*, now at Spithead, that his Purser disposed, without his knowledge, of 100*l.* out of 130*l.* received by him for buying rum and sugar for the ship's company, when in Virginia, in lieu of 4 months' beer, and to report how the money has been disposed of.

(*Various*) :—

13 April.—To have a Court Martial held to enquire into—

(1) The embezzlement of stores by the Boatswains of the *Warspite* and *Newcastle*.
(2) John Deale, for running away from the *Bredah*.
(3) The running aground of the *Hampton Court* on her passage from the Buoy of the Nore to the Downs.
(4) Complaint made by Capt. Robinson, of the *Hope*, against John Webber, his Boatswain.

(*Isle of Wight Yacht*) :—

6 May.—To examine into a complaint made against Capt. Thomas Marshall, of the *Isle of Wight* yacht, for receiving and sending privately ashore at Portsmouth, in evasion of the Customs' duties, two bales of merchants' goods, his answer to which is enclosed, and to send an account, as soon as possible, of the matter of fact.

VI.—Appointments and Promotions.

15 March.—To order R^d^. Wiatt, first Lieutenant of the *Mary*, to come to town to receive a commission to command the *Roebuck* fireship.

17 March.—To appoint a knowing and trusty person to be Muster Master of his Squadron, with instructions (copy enclosed) similar to those given to the Muster Masters in the Fleet.

28 March.—To order Capt. Boys, of the *Cornwall*, to send to town his First Lieutenant, Mr. Jesson, to receive a commission to command the *Hind* ketch.

30 March.—To order the Commander of the *Bredah* to send up John Aldred, a Mate on his ship, to be examined touching his qualifications to act as a Lieutenant.

6 April.—To order Edward Durly, First Lieutenant of the *Lenox*, to attend the Board forthwith, to receive a commission to command a brigantine.

VII.—Manning the Squadron.

(*General*) :—

20 March. . . . To order so many men as are wanting to complete the ships of his Squadron to their middle complements, to be forthwith supplied them from any other ships at Spithead or Portsmouth, from which they can be spared, which men are to be paid as the other turned over men are.

22 March.—Notwithstanding former Orders, he is to take what men are wanting out of the *Cambridge* only, and order that ship to Portsmouth harbour to be refitted.

(*Cornwall, &c.; Hampshire*) :—

27 March.—To turn over what men can be spared from the *Kent* and *Defiance* [See Repairs] to the *Cornwall*, *Devonshire*, and *Russell*, and to transfer from the *Swiftsure* [See Repairs] to the *Hampshire* as many men as will enable her to proceed on her appointed service [See Cruisers], the rest to be put on board the 3 other ships.

(*Goodwin Prize*) :—

3 April.—To turn over 10 men from the *Defiance* to the *Goodwin Prize* for better enabling her to proceed to sea.

(*Russell*) :—

7 April.—To order Capt. Hopson, who succeeded Capt. Lambert on the *Bredah*, to deliver to Capt. Lambert, now of the *Russell*, the 30 men whom the Board allowed him to take from the *Bredah* on his removal, and whom Capt. Hopson, as is complained, refuses to deliver to him.

(*Sapphire; Norfolk*) :—

10 April.—The Board being informed that about 70 men are coming from Bristol to Portsmouth, to serve in the Fleet, he is to put 25 of them, being able seamen, on board the *Sapphire*, and the rest into such other line of battle ships at Spithead as most want them.

17 April.—Notwithstanding his former Orders, he is to have all the rest of the 70 men put on board the *Norfolk*.

28 April.—The 25 men intended for the *Sapphire*, being on board the *Norfolk*, he is to have the *Sapphire* supplied with sufficient men, out of such ships at Spithead as can best spare them, to make her number up to 115, her middle complement.

(*Hans Lett*) :—

10 April.—The Board having on the 5th inst. directed Capt. Dover of the *Expedition*, to discharge Hans Lett, a young Dane, on affidavits made that he was no seaman, and Capt. Dover having represented that he is an able seaman, and served as such in an English merchant ship

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in a voyage to the Straits and back, he is to make strict enquiry into the matter and report.

(*Privateersmen*) :—

11 April.—It appearing from a letter from Richard Talliafere (copy enclosed) that, pursuant to the Orders lately given for taking men out of privateers, half his men are taken from his ship, and that they are all the seamen he has, he is to examine into the matter and report whether his statement is true, the Board's Orders directing that only half of the seamen belonging to privateers should be taken from them, whereof they are allowed but a third part of the number desired for sailing them.

17 April.—Whereas, pursuant to Orders of 14th inst., he has informed the Board that Capt. Graydon's officers have impressed 16 men out of the new *Caaz*, Commander Richd. Talliaferro, and left only 22 on board her, but that most of the seamen, in his belief, are included in the number taken away; and whereas the Board's late Order directs the taking only half the number of seamen from privateers, he is to state why Capt. Graydon keeps more than half of the seamen, and has not returned the landmen taken from her.

(*Muster Master's boat's crew*) :—

29 April.—The *Rupert Prize* being appointed to attend on the Muster Master of the Blue Squadron, and not having men enough to sail her, whereby her Commander cannot furnish the Muster Master with a boat's crew, to enable him to perform his duty, he is to furnish her with enough men for that purpose out of the ships at Spithead that can best spare them.

4 May.—To supply the Muster Master of his Squadron with a crew to man the eight oared boat directed to be furnished him for performing his duties.

VIII.—Repairs.

22 March. . . . To order the *Cambridge* into Portsmouth harbour, to be refitted.

25 March.—To order the *Warspite* and the *Etna* fireship into Portsmouth harbour, to be refitted.

27 March.—To send the *Kent* and *Defiance* to Chatham, to be repaired, ... and to order the *Swiftsure* into Portsmouth harbour to be laid up. [See also Manning the Squadron.]

27 March.—To order the *Crown* and *Adventure* into Portsmouth harbour, to be refitted.

7 April.—To order the *Flame* fireship into harbour, to be refitted, it appearing from a paper signed by her Commander, Capt. Stewart, enclosed in Rooke's letter to the Board of the 6th inst., that she has not been cleaned for 14 months, that her fireworks are much damaged by water, and that she is in great want of caulking.

17 April.—To order the *Hampshire* into Portsmouth harbour, to be sheathed.

28 April.—To order the *Lark*, on her return to Spithead, into Portsmouth harbour, where she has been directed to be cleaned and refitted.

IX.—Miscellaneous.

(*Salutes and Command*) :—

Feb. 14.—To observe the rules as to salutes and command settled in the Treaty lately concluded between Spain and the States General, for

avoiding all disputes and differences respecting the method to be observed in the junction of the allied squadrons with the Spanish fleet in the Mediterranean, a copy of the Articles relating to which is hereby sent, pursuant to the King's Order of this day to the Board. 1693. — No. 765.

(*Wages of Marines turned over*) :—

23 Feb.—To have a List sent to the principal Officers and Commanders of the Navy, of the names of such marine soldiers as are now belonging to any of the ships of his Straits Squadron, as were turned over from, and have wages due in, other ships, and who have no tickets for the said service, giving also the names of the ships to which they now belong, and of those from which they were turned over, in order to their being paid their said wages.

(*Victualling*) :—

20 March. . . . In case the Victuallers' agent at Portsmouth cannot timely furnish the provisions stated to be required in his letter of the 18th inst., he is to obtain them from any other ships at Spithead or Portsmouth, which can best spare them.

(*Dispute*) :—

26 April.—To enquire into and report as to an alleged difference existing for some time between Capt. Henry Martine, of the *Berwick*, and Mr. Kidvill, his first Lieutenant.

(*Contingent Charge*) :—

26 April.—The Board being informed by his letter of the 21st inst. that the men who lately brought him two expresses, are very earnest to be satisfied for their pains, he is to allow them what he shall think fit, out of the contingent money in his hands for contingent charges.

(*Consulage and Port Charges*) :—

17 May.—Pursuant to Order in Council of 23 Aug. 1692, he is to order the Commanders of the ships under his command to oblige all the masters of merchant ships under their convoy to pay their Majesties' Consuls in the ports in the Mediterranean the customary Consulage and port charges.

(*d*) 16 Dec. 1693. Copies of 85 Orders and two extracts of letters from the Admiralty to the Admirals of the Fleet, 12 March 1692–3 to 27 Sept. 1693. The Orders are signed by the following Commissioners:

Lord Falkland signs all but 3, 4, 11, 15, 25, 26, 31, 34, 40, 44, 45, 60–2, 69 and 79.
J. Lowther signs all but 1, 5, 25, 26, 30, 40, 75, 76 and 79.
H. Priestman signs all but 7, 8, 10, 20, 25–8, 39, 47–51, 64 and 82–4.
Robert Austen signs all but 25, 26, 47–50, 63–5, 78, 80 and 81.
R. Rich signs all but 2–4, 8, 9, 11, 18–38, 43–6, 53, 61–3, 78 82, 83 and 85.
J. Sotherne, the secretary, countersigns 1–7 and 50. Paper Book *endorsed* as received this day. [For contents, *see* under next Paper.]

(*e*) Vellum-bound Book containing (1) Copies of the Admirals' Letters to the Admiralty, 60 Letters, 26 Jan. 1692–3 to 28 Sept. 1693, and (2) Copies of Admirals' Letters to Sir John Trenchard, 35 Letters,

1693. — No. 765. 29 April to 29 Sept. 1693. These Collections are paged respectively, pp. 1–74, and (after 23 blank leaves) pp. 1–27, and are referred to below as $(e)^1$ and $(e)^2$ respectively.

The contents of (*d*) and $(e)^1$ and $(e)^2$ are given in the subjoined Abstract, arranged under the following heads, viz. :—

I. Main Fleet (Composition).

II. Main Fleet (Condition).

III. Main Fleet (Movements).

IV. Particular Services.

V. Manning the Fleet.

VI. Victualling.

VII. Payment of Crews ; Contingent Charges.

VIII. Crimes, Offences and Complaints.

IX. Appointments ; Promotions.

X. Sick Seamen ; Clothing ; Hospital Ships.

XI. Execution of Order of 19 May 1693.

XII. Sir George Rooke (after defeat in Lagos Bay).

XIII. Miscellaneous.

I.—Main Fleet (Composition).

Jan. 30 $(e)^1$. *Admirals to Admiralty.* The line of battle, you propose, for this year consists but of 48 sail of first, second, third and fourth rates, and 18 fireships, which are 6 third, 9 fourth rates, and 5 fireships fewer than were last year, and by all advices, the French will be as considerable at sea now as ever. Therefore we judge, our line of battle ought to be as good in every respect as it was last year, more especially in the beginning of the Summer, for afterwards the Fleet may be reduced or modelled as the enemy shall give occasion or opportunity ; for, though at present we can have no certainty of the enemy's intentions, yet in the month of April, or, it may be, in March, we may get some notice of their projects, till when we think it advisable to get and keep together as many of our Fleet as is possible.

We further observe that 3 eighty and 2 sixty gun ships, that are designed for our line of battle, are still upon the stocks, and the builder at Chatham will not engage to launch the eighty gun ships there before May ; and we may reasonably expect the same backwardness of the rest of the ships a-building, or at least, we have little hopes of their being fit for a line of battle till June ; besides, 2 third and a fourth rate ships are now on convoys, and if they come well, yet cannot be expected much sooner than May.

The want of the above-mentioned ships will reduce the line of battle to 40, say, and the last year it consisted of 63. But admit the line of battle intended by your Lordships could be ready in time, though joined with the Dutch, we judge not capable of beating the French Fleet, which, we question not, is intended and expected from us. Wherefore we desire we may have strength to make us capable, as last year.

March 18 (*d*). *Admiralty Orders.* List of 81 ships and vessels (annexed to Instructions to Admirals) designed to be of the Main Fleet for this present Expedition, viz.:— 1693. — No. 765.

1st Rates.	*3rd Rates.*	*6th Rates.*
Britannia.	*Expedition.*	*Greyhound.*
Sovereign.	*Grafton.*	*Saudadoes.*
Victory.	*Hope.*	*Shark* } Brigantines.
Royal William.	*Hampton Court.*	*Discovery* } Brigantines.
London.	*Kent.*	*Fubbs Yacht.*
St. Andrew.	*Lenox.*	
	Mountagu.	*Fireships.*
2nd Rates.	*Mary.*	*St. Paul.*
	Northumberland.	*Charles.*
Duke.	*Plymouth.*	*Strombolo.*
Neptune.	*Russell.*	*Roebuck.*
Albemarle.	*Restoration.*	*Vulcan.*
Windsor Castle.	*Rupert.*	*Vesuvius.*
Duchess.	*Suffolk.*	*Griffin.*
Vanguard.	*Stirling Castle.*	*Lightning.*
Sandwich.	*Warspite.*	*Flame.*
Ossory.	*York.*	*Etna.*
St. Michael.		*Speedwell.*
Royal Katherine.	*4th Rates.*	*Machine.*
		Joseph.
3rd Rates.	*Carlisle.*	*Hunter.*
	Crown.	*Rose.*
Boyne.	*Deptford.*	*Fortune.*
Berwick.	*Greenwich.*	*Crescent.*
Burford.	*Oxford.*	
Cornwall.	*Winchester.*	*Bomb Vessel.*
Captain.		*Kitchen.*
Devonshire.	*5th Rates.*	
Dreadnought.		*Hospital Ships.*
Elizabeth.	*James* Galley.	*Concord.*
Essex.	*Portsmouth.*	*Society.*
Edgar.	*Adventure.*	*Bristow.*
Eagle.	*Mary* Galley.	*Siam.*

May 1 (*e*)[1]. *Admirals to Admiralty.* Downs.—We doubt not but you take notice, that the line of battle is considerably weakened by the *Eagle's* being disabled, which ship we cannot hope for in time, and the *Windsor Castle* being so unfortunately lost.

May 4 (*d*). *Admiralty Orders.* To take under their command the *Norfolk* and *Sussex*, in place of the *Windsor Castle*, lost on the South-sand Head, and the *Eagle*, refitting at Chatham.

Admirals to Admiralty and Trenchard.

May 8 (*e*)[1]. St. Helens. Your Order received. Hope you will take notice they are both in a very ill condition as to men, nor can we see it is in our power to make them capable of sailing along with us.

May 8 (*e*)[1]. St. Helens. We herewith send you our line of battle, with an account how several of them are disposed a cruising, and the reason why some of the ships appointed for the line are not put in, is because we are not sure they will be able to go along with us.

May 11 (*e*)[2]. We do humbly conceive that her Majesty has found out the only expedient at this time of strengthening the Fleet, by

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June 8 (*e*)[1]. We are under great hardships for want of our cruisers and other small ships, being forced to weaken the line of battle, for the performing such services as are only fit for smaller ships.

June 16 (*e*)[1]. We have only with us 24 of the Dutch and 45 of our own ships of the line of battle, and the whole Fleet very short of beer, butter and cheese. [*See* further under VICTUALLING.]

June 16 (*e*)[2]. Same as preceding.

June 16 (*e*)[1]. The *Victory*, *Mountagu* and *Portsmouth* frigates came to us the 14th inst., and the *Plymouth*, *Rochester*, *Swift* and *Goodwin Prize* yesterday. The *Victory* still proves leaky, and the *Duchess* in so bad a condition we must be forced to send her into Plymouth, so that it will be very requisite to hasten to us all such ships as are designed for the line of battle, to Torbay, or any else that shall be ready.

June 16 (*e*)[2]. Same as preceding down to ("into Plymouth").

June 22 (*e*)[1]. We expected ere this, that all the ships intended for the line of battle would have been with us, and we cannot but believe it ought to be strengthened beyond the first proposal, it seeming not unreasonable to believe the Toulon squadron will join their Main Fleet.

June 25 (*e*)[1]. Torbay. We have often written to your Lordships about the ships belonging to the line of battle, and much wonder you never take any manner of notice of what has been said to you concerning them.

July 1 (*e*)[1]. Torbay. None of the ships intended for strengthening the line of battle have yet appeared.

July 1 (*e*)[2]. Torbay. There are none of the ships ordered by her Majesty for the strengthening of the line of battle yet come to us.

July 4 (*e*)[1]. Torbay. None of the ships intended for strengthening the line of battle are yet come. The wind has been easterly several days, and should they lose this opportunity, it may be of ill consequence.

July 5 (*e*)[2]. Torbay. The winds are still easterly, and we might reasonably have expected to see ere this the ships intended for the line of battle.

July 9 (*e*)[1]. Torbay. None of the ships intended for strengthening the line of battle are yet come, except the *Sussex*, which is but ill manned. We shall sail, nevertheless, at the first opportunity of wind and weather.

July 9 (*e*)[2]. Same as preceding.

July 11 (*e*)[1]. Torbay. This morning we unmoored. . . . We have no news of any other ships except the *Humber* and *Sussex*.

July 11 (*e*)[2]. Same as preceding.

July 23 (*e*)[1]. 40 leagues S.W. from Ushant. . . . Here enclosed we send you the line of battle.

July 23 (*e*)[2]. Same as preceding.

Aug. 15 (*e*)[1]. *Britannia*, at sea, off the Lizard. On the 7th inst. we left the station 40 leagues S.W. of Ushant, and ordered . . . the *Rochester* and *Swift Prize* to cruise 10 days from that time on the aforesaid station, to give notice to all ships that were designed for the Fleet, of their being sailed for Torbay.

Sept. 2 (*d*). *Admiralty Orders.* To send a List of all the ships of their Fleet now at St. Helens, Spithead, Portsmouth, or thereabouts.

1693.

Admirals to Admiralty.

Sept. 4 (*e*)[1]. *Britannia* at St. Helens. According to preceding Order, we enclose you a list of what ships and vessels under our command are here, at Spithead and Portsmouth. No. 765.

A List of the Ships now in the Fleet.

Fireships - -	Machine.	Vanguard.	Northumberland.
	Strombolo.	Cornwall.	Norfolk.
	St. Vincent.	Duke.	Captain.
Bomb vessel -	Kitchen.	Berwick.	Lenox.
Fireships - -	Fortune.	Hampton Court.	Britannia.
	Griffin.	Restoration.	St. Andrew.
	Rupert Prize.	Devonshire.	Boyne.
	Fubbs Yacht.	Albemarle.	Mountagu.
Fireships - -	Vesuvius.	Grafton.	Edgar.
	Charles.	Burford.	Russell.
	Crescent.	Stirling.	Sovereign.
	Etna.	Humber.	Sandwich.
	Flame.	Neptune.	Kent.
	Vulcan.	Royal Katherine.	St. Michael.
	Roebuck.	Warspite.	Royal Oak.
	St. Paul.	Hope.	Bredah.
	Joseph.	Royal William.	Dreadnought.
	Lightning.	London.	Woolwich.
Hospital-ships	Society.		
	Bristol.		
	Concord.		
	Siam.		
Brigantines	Shark.	9 Machines.	
	Discovery.		
	Diligence.		
	Spy.		
	Mariana Prize.		
	Saudadoes.		
Fireship - -	Speedwell.		
Brigantine -	Dispatch.		

(*Fireships*):—

April 6 (*e*)[1]. London. Request that another fireship may be appointed in lieu of the *Rose*, ordered into Portsmouth harbour to serve as a guardship, the number allotted to the Fleet being, in our opinion, too few.

May 1 (*e*)[1]. Downs. Desire that the fireships and other vessels designed for the Fleet may be forthwith sent to us.

May 14 (*e*)[1]. St. Helens. We have as yet but 13 fireships, nor do we know when we shall have any more.

May 22 (*e*)[1]. St. Helens. We take notice, that you say that all the fireships designed, except 3, are with us, by which we cannot otherwise conclude than that you think we are sufficiently supplied, but we cannot be of that opinion. . . . As for the 2 fireships wanting men, that are at Plymouth, the Captains have given us no account of it, else we had found some means to have supplied them before now. We will take them with us as we pass by Plymouth.

May 22 (*d*). *Admiralty Orders.* To appoint the *Speedwell*, or some other fireship of the Fleet, to proceed with Sir G. Rooke's Squadron in place of the *St. Vincent*, reported as unfit for that service, and to employ the *St. Vincent* in the Fleet.

Admirals to Admiralty.

May 24 (*e*)[1]. St. Helens.—Have complied with the above Order, but must again let you know, that we do not think we have enough fireships for the line of battle, and that we shall probably have one the less by that Order.

1693. — No. 765.

May 26 (*e*)[1]. St. Helens. It appearing by survey that the *St. Vincent* is unfit for service till docked, we have ordered her into Portsmouth harbour to be repaired.

June 25 (*e*)[1]. Torbay. We have but 15 fireships in the Fleet, therefore desire you will order us 3 more, to make the number 18, as was at first designed.

July 14 (*e*)[1]. Torbay. Have ordered the *Joseph* fireship to Portsmouth, being cast by survey as unfit for sea, and her defects not being to be repaired without a dock.

(*Tenders*) :—

April 28 (*d*). *Admiralty Orders.* To discharge all tenders that can be spared without inconvenience, it being necessary, now the Fleet is at sea, to ease their Majesties, as much as possible of the charge.

Admirals to Admiralty.

May 1 (*e*)[1]. Downs. We desire you would order the Commanders of the Northern Convoys to bring away with them what tenders belong to the Fleet . . . As to the discharge the tenders, we shall take care they shall be no longer continued than the absolute necessity of the Service requires.

May 22 (*e*)[1]. St. Helens. We sent Rear-Admiral Aylmer and Vice-Admiral Mitchell each of them a copy of your letter,* and herewith you have their answers. We find by that of Rear-Admiral Aylmer, that he refers us to the two tenders that he ordered to lie upon the Southsand Head, which tenders do not appear in the Fleet. So soon as they shall, we shall be able to give you a better account.

(*Brigantines, &c.*) :—

May 1 (*e*)[1]. Downs. Request that the brigantines, fireships, yachts, and all such other vessels designed for the Fleet, may be forthwith despatched to us.

May 14 (*e*)[1]. St. Helens. None of the brigantines, intended to attend the Fleet, are come to this place, and till they do, we desire you will appoint the *Swift*.

May 18 (*e*)[1]. St. Helens. We could wish the brigantines and ships intended for the Fleet, were despatched to us before we sail.

May 22 (*e*)[1]. St. Helens. As for the brigantines and shallops, we have no news of them.

May 24 (*e*)[1]. St. Helens. None of the brigantines are come to us, nor the *Fubbs* Yacht.

May 28 (*e*)[1]. St. Helens. Yesterday the *Swift* and *Reserve*, together with the *Fubbs* Yacht, brigantines and well-boats, arrived at the Fleet, and no directions having been given us for the disposal of the well-boats, we have ordered them into Portsmouth harbour.

May 29 (*d*). *Admiralty Orders.* Pursuant to Queen's pleasure signified to the Board this day by Sir J. Trenchard, they are to take with them from Portsmouth, the shallops lately arrived with the Fleet, or leave them behind, as they shall think most for the Service.

Admirals to Admiralty.

June 1 (*e*)[1]. As to what you say relating to the shallops of taking them with us, it was at that time altogether impossible, they being delivered into the hands of the Commissioner (we suppose, according to your own order), we having had no directions to the contrary.

* Not among the papers.

June 8 (*e*)[1]. We are under great hardships for want of our cruisers and other small ships, being forced to weaken the line of battle for the performing of such services as are only fit for smaller ships.

(*Machine vessels*) :—

May 30 (*e*)[1]. St. Helens. Yesterday we received a letter from one Wm. Meesters, signifying to us the charge and command he has of several vessels with machines, of which we have had no intimation from your Lordships, nor do we know the service they are intended for.

May 31 (*d*). *Admiralty Orders.* Pursuant to Queen's pleasure signified by Sir John Trenchard, they are to take under their command the machine vessels that came lately from Holland by direction of Mr. Meesters.

II.—Main Fleet (Condition).

(*At Blackstakes*) :—

Admirals to Admiralty and Trenchard.

March 11 (*e*)[1]. Having enquired into the state of the first and second rate ships here, we do find that some are in a condition of sailing to the Nore, and the rest will be speedily in the like condition, excepting the *London*, *St. Andrew* and *Windsor Castle* . . . .

(*From Nore to St. Helens*) :—

April 29 (*e*)[1]. From on board the *Britannia* in the Downs. Enclose account of damages sustained by the Fleet in the late storm on its way from the Nore to the Downs. Hope to find at Spithead sufficient stores to supply our losses, if not furnished from Chatham, while we remain here, which will be more for the Service; and, that no time may be lost, we have sent Sir Edward Gregory* an account of our losses.

May 1 (*e*)[1]. Downs. We doubt not but you will think it reasonable that the Account we sent you in our last of the damages the Fleet sustained, should be transmitted to Portsmouth, that no time may be lost in putting the ships in a condition to do their Majesties' service.

May 8 (*e*)[2]. St. Helens. The stores from Chatham not coming to us in the Downs, as we expected, we wish this place may be able to furnish us.

May 8 (*e*)[1]. St. Helens. The damage the ships sustained in coming from the Nore to the Downs is not yet repaired, nor their wants supplied, the stores from Chatham not coming to us in the Downs, as we expected, and we are not yet assured of being supplied at this place.

May 14 (*e*)[1]. St. Helens. We find the Commissioners of the Navy have misinformed you, for the *Ossory* and *Captain* were left behind us in the Downs, with order to stay two days on purpose to receive the stores sent from Chatham, and accordingly did stay, but no stores came, as Sir Edward Gregory promised.

May 18 (*e*)[1]. St. Helens. The *Bonadventure* Hired Ship is come here, but without the hoys with stores you mentioned.

(*At Torbay*) :—

June 23 (*e*)[1]. We here enclosed send you the State of the Fleet . . . . We are now using all possible diligence to get the Fleet in a condition of going to sea.

June 23 (*e*)[2]. We here enclosed send you . . . . the State of the Fleet . . . . We shall not be wanting on our part to get the Fleet in a condition of going to sea as soon as possible.

* A Commissioner of the Navy.

1693. — No. 765.

July 9 (*e*)[1]. The experience we have had of the new ships has been very little, but by what has been observed to us by the Commanders, they are generally said to be crank, which is a notorious fault in a man of war, and we could wish you would advise the builders to give such as shall be built for the future more breadth.

Aug. 22 (*e*)[1]. On the 20th inst., in the evening, by express we received your Order of the 18th, directing several services,* which we shall cause to be put in execution, as far as the ships in the Fleet under our command are in a condition for them; and, for your notice thereof, you may observe that in our letter of the 17th inst., sent by express, we enclosed you a Survey of the Condition of the Fleet, by which you may make judgment of what ships must of necessity be docked, and what are fit to be continued at sea. . . .

As to the Squadron you mention to cruise in the Soundings for the securing the return of the West India Fleet,† we shall find it difficult to pick out ships in a condition for that service, the Bilboa Convoy* and the 10 third and fourth rates, designed for Plymouth, for particular service, by the Queen's Order, as we acquainted you in ours of the 19th,‡ and the ships for Ireland, as we have already mentioned,§ having employed all our fourth and small third rates; and, for the 70 gunned ships, we find very few of them that may be reasonably ventured to cruise in the Soundings in the winter time before they are repaired; therefore we shall be forced to appoint some of the 80 gunned ships for that service.

. . . The sooner the great ships are brought about, the less will be their hazard, and the more time there will be to give them thorough repairs, and some of them stand in great need of it.

Admiralty Orders.

Aug. 22 (*d*). Forthwith to order the *Victory*, *Duchess*, *Suffolk*, *Ossory*, and *Elizabeth* to Chatham, those ships being represented as unfit to continue longer at sea.

Aug. 24 (*d*). In case any of the ships which have received damage since being out, except the 5 ordered to Chatham, can be fitted for sea at Torbay, where they now are, they are to have them gone in hand with immediately and completed as soon as possible.

Admirals to Admiralty.

Aug. 25 (*e*)[1]. In pursuance of your Order of the 22nd inst., we have ordered the said 5 ships to repair forthwith to Chatham. . . The *Essex* and *Expedition* being in very bad condition, we recommend that you should order them to be called in. . . . We send you enclosed the Surveys of such ships as came with Sir G. Rooke, and such other ships as, by being absent from the Fleet, were not included in the General Surveys sent you on the 17th.

Aug. 27 (*e*)[1]. As to your Order of 24 Aug. for fitting the ships at Torbay, we do not think in this open bay anything can be done, other than watering the ships and getting them victualled as the rest of the Fleet, and if that be the intention of your Order, it will be done in course. . . . Enclosed is the Survey of the *Mountagu*, which was brought in since the last sent to you.

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* *See below* IV (1) (West India Fleet) p. 140, (Bilboa Fleet) p. 138, and XII. pp. 178, 9.

† *See* IV (1) (*West India Fleet*), p. 140.

‡ *See* IV (2) (*10 Ships for Plymouth*), p. 142.

§ *See* XII *below*, p. 178.

1693. — No. 765.

Sept. 1 (*d*). *Admiralty Orders.* To order the *Essex* and *Expedition* to Blackstakes, there to remain till further order, directing their Commanders to take under their convoy any ships at Portsmouth bound eastward, and ready to sail with them. No men to be taken from the two ships.

Admirals to Admiralty and Trenchard.

Sept. 4 (*e*)[1]. St. Helens.—The *Expedition* and *Essex* are sailed to the eastward, with what merchantmen were at Portsmouth and bound that way, and, at the same time the merchant ships that came from Plymouth, under convoy of the *Woolwich*, joined them.

(*Spare Sails*) :—

April 29 (*e*)[1]. *Britannia*, Downs.—The Navy Board has been acquainted that two suits of sails were not sufficient to keep the great ships out of danger; therefore it was desired that each ship should have a fore or main topsail and a foresail, besides the two suits. But it was answered by the Navy Board that two suits were the establishment, and if any ships had more, it was what ought not to be allowed. But we find by experience, that a storm doth as much oblige us to seek a port to repair damages, as a battle; therefore, upon due consideration, we suppose the establishment was made and meant for a Dutch war, wherein, when it blew more than an ordinary gale, we had little more to do than to furl our sails and come to an anchor, these whole seas affording good riding. But, in this French war, our time will be spent most in sailing, and anchoring will not be much used but upon extraordinary occasions. Therefore we judge it absolutely necessary, and desire, for the Service, that each ship, both of the line of battle and cruisers, may be allowed a spare fore-course and fore top-sail.

(*Ordnance Stores*) :—

May 7 (*e*)[1]. St. Helens. . . . The *Mountagu* is also arrived with the vessels with ordnance stores from Rye. In our next we shall give you a more particular account of the state of the Fleet here.

(*Surveys*) :—

May 14 (*e*)[1]. St. Helens. We could wish that your Lordships would observe to the respective places where their Majesties' ships are repaired, how slightly, or rather indifferently, their defects are enquired into, for, had the *Victory*, and others complained of, (before they went into the dock) been searched, as they ought, and, as it is said, the officers desired, she had not now been obliged to go into harbour, a matter of no small consequence to their Majesties' service, and we wish that no more be found in the like condition.

May 22 (*e*)[1]. St. Helens. As to that part of your letter of the 16th, wherein you desire to know the names of the persons who proposed to the officers of the Yard the making a narrow search into the defects of the ships, we think we ought to be excused from naming any such officers, believing it will little advance the Service. We have great reason to believe them, because we find several more ships in the Fleet but in an indifferent condition, which had been much better, if the officers had been hearkened to when they gave in the defects of their ships, as we find too apparent by the *Victory;* the carpenter of that ship having given in a particular of her defects to Mr. Leigh. We observe that the most material he took no notice of, which was the beech plank and iron work.

Aug. 15 (*e*)[1]. *Britannia*, at sea off the Lizard. We have met with very bad weather since our last going to sea from Torbay, and several of the ships prove leaky and defective, a further account whereof you

1693. — No. 765. shall receive from Torbay, so soon as we shall have returns made of a General Order for surveying of the whole Fleet.

Aug. 15 (*e*)[2]. Same as preceding.

Aug. 17 (*e*)[1]. *Britannia.* Having now got, for most of the ships of the Fleet, returns of the General Surveys we ordered, we herewith send you the State of them, that you may judge what ships are fittest to be kept out; and we desire that, on your perusal thereof, you will give directions for the calling in the *Victory*, and such other ships as, by the Survey, appear unfit for the sea.

Aug. 17 (*e*)[2]. Torbay. Yesterday morning we came to anchor here with the Fleet, and now having Returns made of the General Surveys (mentioned in our last) of the whole Fleet, we here enclose you the State thereof, that you may represent to the Queen the condition of the ships.

Aug. 18 (*d*). *Admiralty Orders.* Pursuant to Queen's pleasure, signified by Sir John Trenchard, they are to have a Survey taken, as soon as possible, of the condition of the Fleet, and report what ships must go into docks, and what can keep longer at sea.

(*Windsor Castle*) :—

Admirals to Admiralty and Trenchard.

April 29 (*e*)[1]. From on board the *Britannia* in the Downs. Heard, on arriving at Deal yesterday, of the *Windsor Castle* being run on shore upon the Southsand Head, . . . will enquire into the cause of this accident, and send an account. When we came on board the *Britannia*, we found that all the tenders and long-boats, belonging to the Fleet, that were with them, were sent to assist, and divers Deal hookers and vessels from Dover; so that what could be done on so sudden an accident was with all diligence performed. Notwithstanding all this help, the ship had nine foot of water in hold. At low water they freed her to three foot water; but so soon as the tide of flood came, she filled again, notwithstanding all endeavours. Last night the wind was at S.E. by E. Toward morning it shifted to the S.W., and blew hard, so that all that could be done this morning was to save the men, and that with great difficulty.

May 1 (*e*)[1]. Downs. Have ordered Capt. Jones to stay here with his smack and officers, and 20 such men as he can trust, to assist in securing what stores he could possible of the *Windsor Castle.*

May 22 (*e*)[1]. St. Helens. In answer to one of yours of the 17th, wherein you desire a particular information of the loss of the *Windsor Castle*, we do not doubt but you have, or will have, before this comes to your hands, the Result of the Court Martial from the Judge Advocate.

(*London*; *Ossory*) :—

April 29 (*e*)[1]. Downs. The *London* and *Ossory* broke their foreyards, and were forced to anchor on the back of the Goodwin, but at night got into the Downs.

(*James Galley*; *Portsmouth*) :—

May 14 (*e*)[1]. St. Helens. The *James* Galley and *Portsmouth* are just now come in, and, being both foul, we have ordered them to be refitted and cleaned here, that they may be paid when they come out of harbour.

May 30 (*e*)[1]. St. Helens. The *Portsmouth* came out of Portsmouth harbour yesterday, and we hope will soon be fit to join the Fleet.

June 16 (*e*)[1]. The *Portsmouth* came to us the 14th inst.

Aug 17 (*e*)[1]. *Britannia.* We have ordered the *James* Galley into Plymouth, to clean and victual for two months.

(*Deptford*) :—

May 18 (*e*)[1]. St. Helens. Have ordered the *Deptford* into harbour to clean, she being very foul, and by being cleaned here may be paid when she comes out.

(*Victory*) :—

May 8 (*e*)[1]. St. Helens. We are sorry to have to tell you that the *Victory* is not in a condition to go to sea, and here enclosed have sent you a copy of the Survey ; and, that no time may be lost, we judged it for the service to order her into Portsmouth harbour, the builder assuring us that, in all probability, he will make her fit for the sea in three weeks. Yet we pray you to take notice, that the want of this ship is a very considerable lessening of the strength of the line of battle, and we desire may be speedily supplied.

May 8 (*e*)[2]. St. Helens. We have great reason to fear the *Victory* (the ship in which Sir John Ashby is) will not be judged fit to go along with us, through her leakiness, and we do heartily wish that no more of them be found in the like condition.

May 30 (*e*)[1]. St. Helens. The *Victory* came out of Portsmouth harbour yesterday, and we hope will soon be in a condition to join the Fleet.

June 16 (*e*)[1]. The *Victory* came to us on the 14th . . . . She still proves leaky.

Aug. 17 (*e*)[1]. *Britannia.* Desire that the *Victory* may be called in, as reported on Survey to be unfit for sea.

(*Goodwin Prize*) :—

May 22 (*e*)[1]. St. Helens. The *Goodwin Prize* is cleaning.

June 16 (*e*)[1]. The *Goodwin Prize* came to us yesterday.

(*Duchess*) :—

June 16 (*e*)[1]. The *Duchess* is in so bad a condition, we must be forced to send her into Plymouth, as you may take notice by the Survey sent herewith.

June 22 (*e*)[1]. We have ordered the *Duchess* into Plymouth, it being apparent to us by a Survey that her leaks could not be stopped at sea.

(*Mary*) :—

June 22 (*e*)[1]. We have ordered the *Mary* into Plymouth, to have her tops and other damages repaired.

(*Winchester*) :—

June 22 (*e*)[1]. We have ordered the *Winchester* into Plymouth, to have several wants supplied and defects repaired.

(*Sheerness*) :—

Sept. 25 (*e*)[1]. Gosport. The *Sheerness* is here, and appointed on no service that we know of. She being a foul ship, we advise her being cleaned and refitted, if you think fit.

Sept. 26 (*d*). *Admiralty Orders.* To order the *Sheerness* forthwith into Portsmouth harbour, for her being cleaned and refitted, and direct her commander to put on board other ships at Spithead any men he shall suspect will desert her meanwhile.

III.—Main Fleet (Movements).

March 11 (*e*)[1]. *Admirals to Admiralty.* Blackstakes. All the third rates fitted at this place are gone out, except the *Captain*, which is taking in her stores.

1693. (*Instructions*);
— *Admiralty Orders.*
No. 765. March 18 (*d*). To put to sea with the 81 ships designed for the Main Fleet, and such Dutch men of war as shall be ordered to join them, and proceed westward to such station or stations as they shall think most proper, and to use all endeavours, without expecting particular orders, to annoy the enemy and secure the trade in the Channel.

April 4 (*d*). To send to Spithead (pursuant to Queen's Order) all the third and fourth rates, the first and second rates to follow as soon as ready.

April 18 (*d*). To send to the Downs (pursuant to Queen's Order) all the ships in the river designed for the line of battle as fast as they can be got ready.

April 25 (*d*). To send to Spithead (pursuant to Queen's Order), with all possible speed, all the men of war designed for the line of battle.

(*In the Downs*):—

Admirals to Admiralty and Trenchard.

April 29 (*e*)[1]. We arrived at Deal about 6 o'clock yesterday evening, where we heard the news of the *Windsor Castle* being run ashore upon the Southsand Head. The rest of the ships got into the Downs. . . . . We design to sail to Spithead, as ordered, as soon as possible, notwithstanding the damage several of our ships have received in the late storm.

April 29 (*e*)[2]. Arrived at Deal yesterday, and immediately repaired on board the *Britannia*. Refer for further particulars to enclosed copy of letter to Admiralty. Will not be wanting, on all occasions, to send an account of their proceedings.

May 1 (*d*). *Admiralty Orders.* Pursuant to Queen's pleasure signified by Sir J. Trenchard, they are to follow such orders as they shall receive from time to time from the King or Queen for proceeding with the Fleet.

Admirals to Admiralty and Trenchard.

May 1 (*e*)[1]. (Postscript).—We are now unmoored, and intend to sail, but the weather is so uncertain and disorderly, and blew so hard, that we thought it fit to stay till the morning, in hopes of more moderate weather.

May 2 (*e*)[2]. The weather has been so very uncertain and blown so hard, that we judged it not safe to move the great ships, but hope we shall have an opportunity of sailing this day. On our arrival at Portsmouth, we shall give you notice.

(*At St. Helens*):—

May 7 (*e*)[1]. Have arrived at St. Helens, the winds having been small and contrary, since our coming out of the Downs.*

May 8 (*e*)[2]. As for the time the ships that are here can be put in a condition for going to sea, we judge it will be yet eight days, the damages that several ships received in coming about from the Buoy of the Nore, being not as yet repaired, nor their wants supplied.

May 11 (*e*)[2]. We received yesterday afternoon, by the hands of a messenger, your letter of the 9th inst., by which we find that Her Majesty's intention is, that the Fleet shall sail within eight days at farthest. In order to it, we assure you nothing shall be omitted on our parts to dispose of matters which shall be under our care in such manner that all things may be ready for the Fleet to sail, if

* They set sail for Spithead on 4 May. Ralph II. 456.

possible, when we shall receive Her Majesty's Orders. . . . As the ships shall come in from the particular services which they are appointed to, we shall keep them, in order to our getting the Fleet together, only keeping out such scouts as shall be necessary to discover the motions of the enemy, as well as to prevent a surprise.

May 11 (*e*)[2]. We shall do all that is possible to get the ships here in a readiness to sail, as Her Majesty shall command and expect the Victuallers will do their part, that no time may be lost on that score.

May 18 (*e*)[1]. Desire to know what Orders the ships of the line of battle are under, judging it time that all ships belonging to us should repair to the main body.

May 19 (*d*). *Admiralty Orders.* In pursuance of Her Majesty's pleasure signified to this Board, you are hereby required and directed, with the first opportunity of wind and weather, to sail with their Majesties' Fleet under your command, together with the Squadron of their Majesties' ships under the command of Sir George Rooke, and the merchant ships under his convoy bound to the Mediterranean, and to keep company with the said Squadron and merchant ships, so far as you shall think requisite. . . . . When you shall have parted with the Squadron and merchant ships bound to the Mediterranean, and those to Virginia and Bilboa, as before directed, you are, with their Majesties' Fleet under your command, to prosecute your former Orders.

Admirals to Admiralty and Trenchard.

May 20 (*e*)[2]. We have received Orders to sail, which we shall do as soon as possible.

May 22 (*e*)[1]. When we received your Order of the 19th Sir George Rooke was on board, whom we desired to give us an account what readiness his Squadron was in to proceed on his voyage. Accordingly, this morning he gave us an account he should be ready to sail on Tuesday night [23 May]. The reason why he could not be ready before this is the want of provisions. On Wednesday morning [24 May] we intend to sail, wind and weather permitting. We have sent you the rendezvous that we resolved on this day at a Council of War, that you may be better able to send such ships to us as belong to the Fleet.

May 24 (*e*)[1]. The Fleet had sailed this day, pursuant to your Orders and the Resolution of the Council of War, but it has been for the most part calm, and the little air of wind that has been to-day, has been at S.W. We intend to move further out by the first opportunity, that those at Spithead may get further out, and be in a better readiness to sail, when a wind shall offer.

May 28 (*e*)[1]. We yesterday unmoored, in hopes of an opportunity of going to sea, but the wind coming westerly again, we were forced to ride fast.*

May 30 (*e*)[1]. The wind is now at N.E. by E., and we intend to sail this day, and doubt not but Sir G. Rooke, with his Squadron and merchantmen under his convoy, will sail with us.

(*Under Sail*) :—

May 30 (*e*)[2]. St. Helens. The wind coming up at N.E. by E. we are now under sail with the Fleet, and hope Sir G. Rooke, with his Squadron and all the merchantmen, will get out this day. We have sent a ship to give notice to those at Plymouth to be in readiness to

* The wind stood fair for the Grand Fleet to sail, but, before they reached a league, it veered about.—*Luttrell* (27 May) iii. 107.

1693. — No. 765. join us, when we appear off that port.* When anything of moment happens to us, we shall acquaint you with it, and, if there occurs to you any knowledge of the enemy's Fleet, we doubt not but you will let us know it, that we may govern ourselves accordingly. We have left the necessary Orders for such ships as are not in a readiness to sail with us, and doubt not but all will get clear of this place in 2 or 3 days, if the want of provisions (but beer and bread especially) does not hinder them. [*See* further under VICTUALLING.]

May 30 (*e*)[2]. We received yours of the 29th inst., being under sail with the whole Fleet, by which we find Her Majesty expects an account why we did not sail according to the Orders sent us. If wind and weather had permitted, we had sailed, as we have done this day, of which you have an account, by a letter of ours sent by express, before this came to our hands. As for Sir G. Rooke, he is supplied with provisions and credit for his Squadron, and do believe there has been no time lost, either on our parts or his.

June 1 (*e*)[1]. We are now lying to and again off of Plymouth, expecting the outward-bound ships† from thence. The wind *is* N.N.W. and N.W., and blows fresh. We design (if the wind comes no further westerly) to endeavour to get out of the Channel, though we find it very troublesome with so great a number of heavy ships.

June 1 (*e*)[2]. We are now sailing to and again, etc., as in preceding.

(*Parting with Straits Squadron*) :—

June 8 (*e*)[1]. The Fleet proceeded near 50 leagues W.S.W. from Ushant with Sir George Rooke, it being the Resolution of a Council of War held at sea the 4th inst., for the better security of that Fleet, and having left him the 6th inst. in the evening with little wind, but since having blown hard at S. and S.S.E.. we doubt not but in all probability he is out of the way of danger of what might happen to him in these parts. We are now returned with the Fleet to our second rendezvous, agreed on by a Council of War, 10 leagues N.W. from Ushant, and, lest any of those ships left behind at Portsmouth or Plymouth, or any Orders from your Lordships, should come to our first rendezvous, we left there the *Swift* and *Goodwin Prize*; but, not finding of them yesterday, as we sailed over our first rendezvous, we thought fit to leave the *Plymouth* on that station, and have ordered her to continue there four days, to give notice to all such ships as belong or are bound to the Fleet, to repair to us to our later rendezvous . . . We have not as yet been able to gain any intelligence of the French Fleet, but shall use all possible endeavours to that purpose, and doubt not but, if any intelligence occurs to you of their proceedings, or where they are, that you will let us know it, by which means we may be the better enabled to do their Majesties' service.

(*Reconnaissance at Brest*) :—

June 16 (*e*)[1]. On Sunday, 11 June, we sent in the *Greenwich*, *Saudadoes*, and *Diligence* brigantine off Fornehead or Ushant, to gain what intelligence possibly they could of the enemy; but as yet they appear not, which we attribute to the badness of the weather we have had, wherein several ships of the Fleet have lost their topmasts. On the 14th we ordered the *Warspite*, with two brigantines, to stand in as near as he could with safety, to discover if the French Fleet was in the bay of Brest or Camarett, we lying with the whole Fleet within 2 or 3 leagues off Ushant, but neither from them nor the best means we

* *See* IV. (1). *Virginia and Bilboa Fleets*, p. 138.

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can use, have we been able to get any information, the *Warspite* being not yet come to us.

June 16 (*e*)[2]. Same as above.

June 17 (*e*)[1]. Whereas we gave you an account by our letter of yesterday's date that the *Warspite* was not come to us, the Captain of the *Warspite*, with the pilot, who is a French Protestant, and very well acquainted with the place, are now come, and acquaint us that he was so near St. Matthew's point, that Brest Bay was open to him, and saw neither ships nor other small vessels, either at an anchor or under sail, except 3 or 4 fisher boats near Conquest Road.

June 22 (*e*)[1]. The *Greenwich* and the brigantine are now plying in, and we are informed they have taken three privateers, but cannot give you any particulars, which we shall do with our next. The *Saudadoes* is left with one of them at sea. . . . . The *Greenwich*, which was ordered on Sunday last was sevennight, to discover if the enemy was in Brest, is just now returned, having, with the assistance of the ships that were with her, taken three privateers, one of 16, one of 14, and another of 4 guns, but bring us no account of the French Fleet. The *Saudadoes* is left with one of them at sea.

June 22 (*e*)[2]. Same as in preceding, from ("The *Greenwich*, which was ordered") to ("of them at sea").

June 23 (*e*)[1]. Torbay.—We send you herewith Capt. Peddar's account, whom we have ordered to Plymouth, together with the prizes, in the taking of which Capt. Clements in the *Saudadoes*, and Capt. Cleveland, in the *Diligence* brigantine, behaved themselves very well, as Capt. Peddar reports, and in case you shall think fit to appoint them to be fitted for their Majesties' service, we believe it reasonable that Capt. Clements should have the command of one of them, and Cleveland another. . . . . The *Saudadoes* is not yet returned to us with the privateer she took.

June 23 (*e*)[2]. We send you herewith Capt. Peddar's Account . . .

(*Return*) :—

June 16 (*e*)[1]. The whole Fleet very short of beer, butter, and cheese, which will unavoidably oblige us to come in to recruit, according to the result of the last Council of War.

June 16 (*e*)[2]. Same as preceding.

June 17 (*e*)[1]. We intend to proceed, according to the Resolution of the last Council of War, to look for the enemy at Scilly, as the letters received from you seem to signify, and not finding them there, to go for Torbay, to take in such provisions as the Fleet stands in need of.

(*At Torbay; Councils of War*) :—

June 22 (*e*)[1]. We arrived at Torbay at 8 o'clock last night, according to the Resolution of the Council of War the 13th past.

June 22 (*e*)[2]. We received yours of the 14th inst., signifying her Majesty's pleasure for the calling a Council of War to consider whether the Station that would find us in, be the most proper, or what other may be best for us to go to, in order to put our Instructions the most effectually in execution for their Majesties' service. We were then off the Lizard, in our way to Torbay, according to the Resolution of a Council of War, in order to recruit the Fleet with beer, butter, and cheese, and such other necessaries as are absolutely wanted.

June 23 (*e*)[2]. We received yours of the 21st inst. this morning, about 10 o'clock, together with her Majesty's Order, and likewise a Paper containing an Extract of several Advices, and, pursuant to her

1693. — No. 765. Majesty's commands, immediately called a Council of War of Flag Officers, whose opinion we here enclosed send you.

June 25 (*e*)[1]. We enclose the Result of the last Council of War.

June 25 (*e*)[2]. Same as preceding.

July 1 (*e*)[1]. Enclosed is the opinion of a Council of War, occasioned by a letter received from Sir J. Trenchard last night.

July 1 (*e*)[2]. We received yours of the 28th by express last night about 11 o'clock, and this morning at 4 called a Council of War, the Result of which we send herewith.

July 5 (*e*)[2]. We received yours of the 3rd inst. by the hands of a messenger at 1 o'clock this morning. According to her Majesty's commands, we will certainly sail as soon as we have our provisions in, wind and weather permitting, and to such stations as shall be resolved on by a Council of War, for the meeting and the better intercepting the enemy in their return home, which Council of War we think fit to defer till the day of our sailing, that the enemy may have as little knowledge of our Resolution as possible.

July 9 (*e*)[1]. We this morning called a Council of War of the Flag Officers, the result of which we send you . . . We shall sail by the first opportunity of wind and weather. We apprehend our stations will be very uncertain, because we have no mind that the enemy should know where we are.

July 9 (*e*)[2]. We shall lose no opportunity of sailing, according to her Majesty's commands.

(*Put to sea*) :—

July 11 (*e*)[1]. Torbay. This morning we unmoored, and intend to sail with the Fleet if possible. The wind is at S., but when we unmoored it was at S.E.

July 11 (*e*)[2]. To same effect as preceding.

(*Back at Torbay*) :—

July 14 (*e*)[1]. The 11th inst. we sailed, endeavouring to get to the westward, but by bad weather were forced to bear up for Torbay the 13th, several ships in the Fleet having spent their topmasts and lost their anchors with other damages, the particulars of which we enclose . . . We shall lose no opportunity of sailing to the westward, pursuant to her Majesty's pleasure signified to us in a letter from Sir John Trenchard of the 11th inst.

July 15 (*e*)[2]. Having taken in such provisions as came in the last Victuallers [See VICTUALLING] on 11 July, about 3 in the afternoon we weighed with the whole Fleet, the wind being southerly, an easy gale, plied away to the westward; at 7 in the evening came to an anchor, the tide being done, the wind at S.W. The next day at 1 o'clock we weighed; wind at N.W.; plied to the westward. About 5 the next morning it blew hard at S.S.W.; thick, squally weather. We endeavoured to seize the land. At 10 this day in the forenoon we made the Start bearing west of us about 3 leagues. The weather continuing still thick and stormy, thought it very improper to keep the sea, having no prospect of gaining to the westward, and several ships have lost their topmasts and yards. The *Grafton* sprung her foremast. Several ships having lost their anchors the day before, and many proving leaky, we bore up for Torbay, where we anchored about 12 at noon. For particulars of damages we refer you to the letter we wrote to the Admiralty, that accompanies this. About 10 o'clock last night we received yours by the hand of your messenger. The next morning we called a Council of the Flag Officers, the Result of which we enclose.

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. . . We shall leave, sealed up with the Mayor of Dartmouth such rendezvous as has been agreed on by a Council of War, to be delivered to such as you shall order to call for it. We shall lose no opportunity of sailing, according to the opinion of the Council of War.

July 16 (*e*)[1]. The wind coming northerly, we intend to sail to-morrow, if it holds, not having an opportunity before, since we came in.

July 16 (*e*)[2]. We received yours of the 14th, together with the enclosed advices, by the hands of your messenger. We shall not be wanting in pursuing her Majesty's Orders, as we have already acquainted you by the former messenger. There has been no possibility of our sailing since our last coming in, the winds being southerly, blowing hard, and the weather very uncertain. The wind now inclining to be northerly, we intend to sail to morrow morning.

(*At sea*) :—

July 18 (*e*)[2]. Off Plymouth. It being calm yesterday morning prevented our sailing, as we acquainted you in our last, but about 6 o'clock in the evening, the wind coming up at N.N.W., a gentle gale, we sailed with the Fleet, and are got thus far. We shall lose no opportunity of getting to our stations, and shall use such means as shall be thought most advisable, of intercepting the enemy.

July 23 (*e*)[1]. 40 leagues S.W. from Ushant. Here enclosed we send you a copy of the Council of War held on board us this day.

July 23 (*e*)[2]. In pursuance of Queen's pleasure signified to us in your letter of the 16th, that a Council of War should determine what station would be most proper for intercepting the French, we refer you to the enclosed copy of the opinion of the Council of War held on board us this day.

Admiralty Orders.

July 28 (*d*). To send the earliest advice possible of any changes of rendezvous. [See further under VI.]*

Aug. 18 (*d*). To remain with the Fleet at Torbay till further orders, unless they have good advice that the French Fleet is returning to Brest, in which case they are to go to sea and endeavour to intercept them.

Admirals to Admiralty and Trenchard.

Aug. 15 (*e*)[1]. *Britannia*, off the Lizard. On the 7th inst., according to the result of a Council of War (here enclosed) of the 6th, we left the station 40 leagues S.W. of Ushant, and ordered the *Greenwich* for Ireland, to give notice to Sir George Rooke, or the Commander-in-Chief of the Mediterranean Squadron, and the *Rochester* and *Swift Prize* to cruise 10 days from that time on the aforesaid station, to give notice to all ships that were designed for the Fleet, of their being sailed for Torbay; and on the 10th we ordered the *Deptford* and *James* Galley ahead to make for the English shore and Torbay with the like notice . . . Postscript. Since the writing this letter the *Adventure* and *Saudadoes* [See PARTICULAR SERVICES] are come to the Fleet and bring the enclosed intelligence from the Groyne. They also acquaint us, that on Friday last [11 Aug.] they met Sir G. Rooke and the Victuallers, together with our cruisers left as advices on the former station (40 leagues S.W. of Ushant) in the latitude of 47°; whereupon we immediately called a Council of War; the result hereof you have also herewith; since which we have ordered the said ships to cruise for 10 days between the Lizard and Ushant, to give notice to Sir G. Rooke, the Victuallers, and all ships that are to join the Fleet,

* For answer see below Aug. 17.

1693. — No. 765. that we are sailing for Torbay, from whence you shall receive a further account of the Fleet.

Aug. 15 (*e*)[2]. *Britannia*, off the Lizard.—On the 4th inst. we received yours of 23 July by the *Swift Prize* from Plymouth, signifying the Queen's pleasure that all advisable means and methods should be used for engaging and fighting the French Fleet, before their return into their own ports, ... which we imparted to the Flag Officers at a Council of War, held on board us the 6th inst., and enclosed you have a copy of their opinion thereon, which we desire you will lay before the Queen. . . . . At our leaving the station 40 leagues S.W. from Ushant, on the 7th present, we ordered the *Greenwich* for Ireland etc., (to same effect as preceding, down to "with the like notice").

(*Back at Torbay again*) :—

Aug. 17 (*e*)[1]. *Britannia*. Yesterday about 9 o'clock, we anchored here [at Torbay] with the Fleet . . . Your Order of the 28th July for giving you our rendezvous* being thus far complied with by the copies of Councils of War already sent, as we come to new *Resolutions*, we shall give you the soonest advice we can thereof. . . . . And as to Her Majesty's further pleasure, &c. [as in next letter *ad fin*].

Aug. 17 (*e*)[2]. Torbay. Yesterday morning we came to anchor here with the Fleet. . . . . We take notice of the intelligences enclosed, and shall be very glad to have it in our power to attempt any advisable thing with the Fleet, that may be for the satisfaction of their Majesties and their Allies, and the honour and welfare of their Majesties' dominions. . . . And as to her Majesty's pleasure, signified in the Order of 9 August, that we forthwith call a Council of War to consider what attempt may be made with the forces now with us upon the coast of France, which may be of considerable damage to the enemy, and to execute the same accordingly, so soon as the weather will permit (it blowing now very hard, as it has done ever since our coming in) we will call a Council of War, and send the *result* by express, to be laid before her Majesty. . . . . Our scouts are this evening drove in from their stations by the extremity of bad weather.

Aug. 19 (*e*)[1]. *Britannia*. This comes by express, to accompany the enclosed Result of a Council of War held on board us this day. The weather has been so very stormy since we came in, that till this day (and we were forced to take a slatch for it too), we had not an opportunity of getting the Flag Officers on board, and now again it blows very fresh.

Aug. 19 (*e*)[2]. On the 17th inst., by express, we owned the receipt of yours of 1, 9, and 11 August, and gave such answer thereto as we were able to do at that time. We have had so much wind ever since and also from our coming in here with the Fleet, that till this day we could not hold a Council of War, and enclosed you have the Result thereof.

Aug. 22 (*e*)[1]. *Britannia*. We shall, as you direct, remain here till further order.

Aug. 25 (*d*). *Admiralty Orders*.—Pursuant to Queen's command, they are to come with the Fleet to St. Helens, as soon as wind and weather will permit.

Admirals to Admiralty and Trenchard.

Aug. 27 (*e*)[1]. *Britannia*. Torbay.—The wind is at W. by S., and blows hard, and the weather very unsettled. All our scouts that come in here

* See above July 28.

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tell us of nothing but storms at sea, and ever since our being here we have had such ruffling weather that it is with difficulty the ships get in their provisions.

Postscript (about 5 p.m.).—Your Order of 25th to sail to St. Helens just received, and shall be executed.

(*At St. Helens*) :—

Aug. 29 (*e*)[1]. *Britannia.* St. Helens.—In pursuance of your Order of the 25th inst., received at Torbay by express the 27th, which we immediately answered by the same express, we sailed with the Fleet yesterday morning, and came to anchor here this day. . . . Here enclosed we send you a list of the disposal of several ships from the Fleet, and how employed.

In margin. Sent by express with Sir John Trenchard's letter at half an hour past two, afternoon.

(Enclosure.)

A List of the disposal of several Ships from the Fleet.

Ships' Names.	Upon what Services.
Concord, *Society*, *Bristol*, *Siam* - Hospital ships	To Plymouth to put sick men on shore.
Kitchen, bomb vessel; *Vesuvius*, fireship	To Plymouth, to refit.
Rupert Prize	To Plymouth, for stores.
Mary, *Deptford*, *Crown*	To Bilboa, with 5 Dutch men of war.
Monmouth, *York*, *Sheerness*	To Kinsale, to join the men of war, to bring the Turkey Fleet to Spithead.
Greenwich, *Rochester* - Off Cape Clear; *Plymouth*, *Carlisle* - Off Scilly; *Lion*, *Winchester* - Off the Lizard	For the better securing the return of the West India Fleet.
Adventure, *Portsmouth*	To cruise off the Lizard 14 days, and to stand in for Ushant every 3 or 4 days, and to return to Plymouth.
James Galley, *Swift Prize*	To cruise off the Land's End 21 days and return to Plymouth.
Woolwich	To Plymouth, to convoy the Victuallers to St. Helens.
Mountagu	To convoy the Victuallers from Dartmouth to St. Helens.
Rupert	To convoy the colliers from Exeter to Dartmouth, and to return to St. Helens.
Victory, *Ossory*, *Duchess*, *Elizabeth*, *Suffolk*	To Chatham.

Aug. 29 (*e*)[2]. St. Helens. In an express from the Admiralty Office we received yours of the 22nd inst., owning the receipt of ours of the 17th and 19th inst., with the Result of a Council of War, which you had laid before the Queen. According to Orders from the Admiralty, we sailed with the Fleet yesterday morning from Torbay, and came to anchor here this day. Send same list as in preceding.

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Sept. 9 (*e*)[1]. *Britannia.* We think it for the Service to observe to you, that it is very unsafe for the Fleet to ride here at this season of the year, and that it is high time the great ships were put into safe harbour, unless you have a prospect of service for them, equivalent to the hazard of keeping them out, which if you judge necessary to do, we are of opinion Spithead will be a properer place for their riding than where we are, in pursuance of your Orders of 25 August.

Sept. 12 (*d*). *Admiralty Orders.* After turning over men from other ships in the Fleet to the *Weymouth*, *Woolwich* and *Oxford* [See PARTICULAR SERVICES], and to the *Cambridge* and *Dover*, they are to order all the three-decked ships, except the *St. Andrew*, *St. Michael*, *Neptune* and *Vanguard*, to proceed without loss of time to Blackstakes, and remain there till further order, unless the *Royal Katherine*, the Commander of which they are to direct to go no further than the Buoy of the Nore, and remain there until he receives orders from the Board.

Sept. 14 (*e*)[1]. *Admirals to Admiralty.* You having taken no notice of what we wrote in ours of the 9th concerning the ships that remain here going to Spithead, where we judged would be safer riding for them, we think fit to put you in mind of it again.

(*Ships laid up*) :—

Sept. 13 (*d*). *Admiralty Orders.* Pursuant to Queen's pleasure signified by Sir J. Trenchard, they are to order the ships in the list subjoined to repair to the places specified therein, viz. :—

(1.) To Blackstakes :—

3rd Rates.—	*Captain.*	*Hope.*
	Lenox.	*Northumberland.*
	Kent.	*Hampton Court.*
	Edgar.	*Restoration.*
	Burford.	*Monmouth.*
		Stirling Castle.

(2.) To Longreach :—

Rupert.
Lion.
Mountagu.

(3.) To Deptford :—The following fireships (except 6, to be chosen by the Admirals, as in the best condition for winter service), viz. :—

Roebuck.	*Etna.*	*Machine.*
Vulcan.	*Crescent.*	*Speedwell.*
Lightning.	*Fortune.*	*St. Vincent.*
St. Paul.	*Griffin.*	*Charles.*

[See further under MANNING THE FLEET (*Turning over Seamen*).]

Admirals to Admiralty.

Sept. 14 (*e*)[1]. *Britannia.* We observe also by the said Order, that those services being performed, we are to order all the three-deck ships (except the *St. Andrew*, *St. Michael*, *Neptune* and *Vanguard*) to Blackstakes, and the *Royal Katherine* to the Nore, which shall accordingly be done.

Sept. 20 (*e*)[1]. *Britannia.* St. Helens. Orders are issued for all ships to go about, as you have given us directions, Rear-Admiral Mitchell having the command of them, and enclosed you have a list thereof, and we have also sent another to the Navy Board, with our desires that they would give speedy directions for able pilots being ready to take charge of them in the Downs.

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Sept. 23 (*e*)[1]. On the 20th inst. we wrote you by express, enclosing a list of the ships coming about under the command of Rear-Admiral Mitchell, and the next day before noon, the wind being fair for the ships going about, they got under sail. [See also MISCELLANEOUS (1).] . . . On Thursday evening [21st] the weather being uncertain and thick, and the wind more southerly without, as Rear-Admiral Mitchell advised us by letter, and that he apprehended they had not ebb enough to carry them about the Owers, they returned again to St. Helens, and yesterday, about 2 o'clock in the afternoon, they sailed again with a fair wind, and we hope will have good weather to carry them into the harbours they are ordered to.

(*Winter Service*) :—

Admiralty Orders.

Sept. 13 (*d*). To order the following ships to remain at Spithead until further order, viz. :—

(1.) 6 fireships (to be chosen out of 12, *see* above),—for Winter Service.

(2.) The following ships :—

St. Andrew.	*St. Michael.*	*Humber.*
Neptune.	*Royal Oak.*	*Boyne.*
Vanguard.	*Berwick.*	*Russell.*
Plymouth.	*Warspite.*	*Sussex.*
Grafton.	*Devonshire.*	*Norfolk.*
Mary.	*Cornwall.*	

Sept. 13 (*d*). To send to the Board the names of the 6 fireships chosen for winter service at Spithead.

Sept. 16 (*e*)[1]. *Admirals to Admiralty. Britannia.* St. Helens. The fireships we have pitched upon to continue here, besides the *Flame*, *Vesuvius* and *Strombolo*, as your Order of the 13th mentions, are the *Vulcan*, *Lightning*, *Crescent*, *Fortune*, *Roebuck*, and *St. Vincent*.

Sept. 15 (*d*). *Admiralty Orders.* To keep one of the Hospital Ships, fittest for keeping the sea this winter, at Spithead, and send the rest up the Thames as far as Longreach. [See also X. HOSPITAL SHIPS.] Also to order such tenders now in the Fleet, as they think proper, to attend on a squadron of 25 ships of the second, third, and fourth rates, designed on service this winter, to remain at Spithead till further order.

Admirals to Admiralty.

Sept. 19 (*e*)[1]. *Britannia.* St. Helens. We have pitched upon the *Concord* hospital ship to stay with the ships ordered to continue here. . . . . We have directed Sir George Rooke to pitch upon four ketches and one smack which we think sufficient for the ships that are to continue here, and to discharge such others as belong to those ships.

(*Hunter Fireship*) :—

Sept. 19 (*e*)[1]. *Britannia.* St. Helens. The *Hunter* fireship is here, without any commands to us about her.

Sept. 23 (*d*). *Admiralty Orders.* To order the *Hunter* fireship into Portsmouth harbour, to be cleaned and refitted.

Sept. 25 (*e*)[1]. *Admirals to Admiralty.* Gosport. Your Order received. We have given directions accordingly.

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IV. Particular Services.

No. 765. (1) *Convoys.* Virginia and Bilboa Fleets: Outward-bound (April 18—June 8).—Newfoundland and New England Fleets: Outward-bound (June 1).

Canary Fleet: Homeward-bound (April 18).—Bilboa Fleet: Homeward-bound (July 28—Aug. 27). West India Fleet: Homeward-bound (Aug. 18—Sept. 20).

L. Galway to Holland (April 28 to May 1).—Merchantmen for London (May 14).—Ships up Channel (May 30).—Ships for Plymouth (June 16).—Colliers to Wales (Aug. 25—29).—Ships up Channel (Sept. 6—9).

(2) *Cruisers*:—*Mountagu* and *Rochester* (May 14—29).—*Carlisle* (May 24).—*Goodwin Prize* and *James* Galley (June 25—July 14).—French privateers (June 30).—*Adventure*, *Portsmouth*, *James* Galley, *Swift Prize* (Aug. 27).

(3) *Various*:—10 ships ordered to Plymouth (Aug. 17—27).—Frigates to Cape Clear for intelligence (July 9—Aug. 27).—*Lumley Castle* to Cadiz (Aug. 17—19).—Baltic squadron (Aug. 25—Sept. 9).—Secret expedition (Sept. 2—14).—Muster Masters (2 Sept.).

(1.) *Convoys.*

(*Virginia and Bilboa Fleets: Outward-bound*):—

April 18 (*d*). *Admiralty Orders.*—Pursuant to the Queen's pleasure, they are to send the *Plymouth*, *York*, *Crown*, and *Adventure*, with 2 Dutch men of war, to be appointed by Vice-Admiral Callemberg, to see the Virginia fleet and convoys out of the Soundings.* [See further under (*Canary Fleet*) below.]

May 18 (*e*)[1]. *Admirals to Admiralty.*—Understand the Virginia fleet is still at Plymouth.—[*See* London Gazette, No. 2870.]

May 19 (*d*). *Admiralty Orders.*—Pursuant to the Queen's pleasure, to take up at Plymouth the fleets for Virginia and Bilboa (sending on a frigate to give them notice), and after keeping them company as far as judged fit, to send away the former with its convoy the *Foresight* and *Archangel*, and order a fourth and fifth rate to convoy the latter to Bilboa, and then return to the Fleet.

Admirals to Admiralty and Trenchard.

May 20 (*e*)[2]. Acknowledge letter of 19th inst., giving orders as to Bilboa convoy, which they have received also from the Admiralty. Have informed Lt. Admiral Almonde of them, that he may give notice to the Dutch ships, bound to Bilboa, to be ready.

May 26 (*e*)[1]. Have ordered the *Plymouth*, *Crown* and *Adventure* to repair to the Fleet, if the wind continues W., but if it comes E. to remain at Plymouth, to join the Fleet on its arrival there.

June 1 (*e*)[1]. Design the *Crown* and *Adventure* for Bilboa convoy.

June 8 (*e*)[1]. The said ships, with 5 Dutch men of war (3 of them being of the line of battle) have sailed with the Bilboa fleet, and it is hoped are now in safety.†

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* The Virginia Fleet and convoy left Spithead on 1 May. (*London Gazette*, No. 2867).

Dartmouth, 9 May; "yesterday the Virginia Fleet, about 100 sail, passed by to the westward, under the convoy of 12 men of war, 2 of which go to the voyage with them, and the rest return, after they have seen them 100 leagues at sea."—*Luttrell* (May 13) iii. 98.

† The *Crown* and *Adventure* returned to Plymouth on 25 June in 8 days from Bilboa, where they stayed about a week. (*London Gazette*, No. 2883.)

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(*Newfoundland and New England Fleets: Outward-bound*) :—

June 1 (*e*)[1]. Understand the *Samuel and Henry*, with the ships bound to Newfoundland and New England, lie in Falmouth. Have sent the *Swift* (by which they send this account) to give notice of the Fleet's being off Plymouth, and would have them join the Fleet when off Falmouth.

June 1 (*e*)[2]. Same as preceding.

(*Canary Fleet: Homeward-bound*) :—

April 18 (*d*). *Admiralty Orders.*—Pursuant to the Queen's pleasure, to order the *Plymouth*, &c. [*see* above], after seeing the Virginia fleet out of the Soundings, to cruise for the Canary convoy 50 leagues W. of Scilly till 10 May, if not come home by that time, and then to sail to Spithead.*

(*Bilboa Fleet; Homeward-bound*) :—

July 28 (*d*). *Admiralty Orders.*—Pursuant to Queen's pleasure signified by Sir J. Trenchard, they are to send what ships they think fit, and when most convenient, to convoy the homeward-bound Bilboa fleet to Plymouth, which is now ready to come home.

Aug. 17 (*e*)[1]. *Admirals to Admiralty.*—*Britannia.*—Will do as ordered, and consult the Dutch Admiral, that his ships may join and strengthen the convoy.

Aug. 17 (*e*)[2]. *Admirals to Trenchard.*—*Britannia*, in Torbay.—Will execute Admiralty Order of 28 July as soon as possible.

Aug. 18 (*d*). *Admiralty Orders.*—To send 2 or more ships to convoy the fleet from Bilboa, and order some to cruise in a proper station for their further security.

Admirals to Admiralty.

Aug. 19 (*e*)[1]. *Britannia.*—Have ordered the *Mary*, *Crown* and *Deptford* for Bilboa convoy.

Aug. 22 (*e*)[1]. *Britannia*, Torbay.—The Dutch Admiral has ordered 5 of their ships to accompany the 3 English ones. Hope this convoy will be sufficient, not having ships enough in a condition proper to cruise, as directed, to secure their return, unless the Board appoint some of the 10 ships ordered to Plymouth, as to which they desire further directions.

Aug. 22 (*d*). *Admiralty Orders.*—If no Dutch men of war are gone with the 3 English ones, they are to order 2 more to go after them, to strengthen the convoy, and as the said 3 ships appear very proper ones for cruisers, which will speedily be wanted, they are to appoint 3 third rates from the Fleet instead, in case they are not yet sailed.

Admirals to Admiralty.

Aug. 25 (*e*)[1]. *Britannia*, Torbay.—The ships for Bilboa were sailed before receipt of letter of 22nd inst., and as they advised that 5 Dutch men of war went with them, being a stronger convoy than the Order mentions, they have no further answer to give.

Aug. 27 (*e*)[1]. *Britannia*, Torbay.—Their letter of the 22nd about cruisers being unanswered, they conclude they need give no further directions in the matter, especially as 5 Dutch men of war went as convoy.

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* The Canary Fleet, under convoy of the *Dreadnought*, *Oxford*, *Unity* and *Hunter* fireships, put into Falmouth on 26 May, having left Canary on 27 March. (*London Gazette*, No. 2875.)

1693. (*West India Fleet, Homeward-bound*):—

— *Admiralty Orders.*

No. 765. Aug. 18 (*d*). To send some ships to cruise in the Soundings to secure the return of the West India fleet.

Aug. 22 (*d*). To appoint 6 ships (pursuant to Queen's Order) to cruise in the Soundings, as ordered, *i.e.*, 2 off Cape Clear, 2 off Scilly, and 2 off the Lizard.

Admirals to Admiralty.

Aug. 25 (*e*)[1]. *Britannia*, Torbay.—Will send 6 ships as ordered.

Aug. 27 (*e*)[1]. Have directed the *Rochester* and *Greenwich* to cruise off Cape Clear, the *Plymouth* and *Carlisle* off Scilly, and the *Lion* and *Winchester* off the Lizard.

Sept. 13 (*d*). *Admiralty Orders.*—To send the *Saudadoes* in search of the 6 cruisers (omitting the *Lion*), and order them back to Spithead.

Admirals to Admiralty.

Sept. 16 (*e*)[1]. *Britannia*, St. Helens.—The *Lion* not being mentioned in their Order of the 13th inst., they have not recalled her.

Sept. 20 (*e*)[1]. The *Plymouth*, *Carlisle* and *James* Galley, came in here (St. Helens) to-day from the westward, and are sailed to Spithead. The *Saudadoes* was put back yesterday by contrary winds, and to-day is gone out again to carry the orders to the *Greenwich* and *Rochester* off Cape Clear.

(*Lord Galway to Holland*):—

April 28 (*d*). *Admiralty Orders.*—To appoint a ship for carrying L. Galway to Holland, the King having sent for him from Flanders,* and there being no ship within reach, but of the Main Fleet, to transport him.

May 1 (*e*)[1]. *Admirals to Admiralty.*—The Downs.—Have appointed the *Greenwich*, and cancelled for that purpose her orders to go cruising.

(*Merchantmen for London*):—

Admirals to Admiralty.

May 14 (*e*)[1]. St. Helens.—Here are several merchantmen bound for London, under convoy of the *Bonadventure* merchantman, who, as they say, left them off Beachy. Recommend that she, or another ship, should be appointed to take charge of them.

(*Ships up Channel*):—

May 30 (*e*)[1]. St. Helens. We also think fit to acquaint you with the *Portland's* returning to the Downs, without stopping here, or coming near us, by which means the empty Victuallers, Tenders discharged, and several other merchantmen are forced to stay here, nor are the seamen returned, which were taken out of the Tenders belonging to the ships of the line of battle.

(*Ships for Plymouth*):—

June 16 (*e*)[1]. Will send a ship, as desired, to convoy to Plymouth the ships lying at Topsham and Dartmouth, and another transport, the *King Solomon*, now at Falmouth, as soon as they send any ships that way.

(*Colliers to Wales*):—

Aug. 25 (*d*). *Admiralty Orders.* The Board being informed that there are about 30 colliers waiting at Exeter for convoy to Wales, they

* "The L. Galloway is gone to his Majesty for instructions about the descent, on whose return the matter depends."—*Luttrell* (May 9), iii., 94.

are to appoint ships to proceed thither and convoy them to Falmouth, and then return to the Fleet at St. Helens, bringing all such ships as are ready to sail and bound that way.

Admirals to Admiralty.

Aug. 29 (*e*)[1]. *Britannia.* St. Helens.—Before leaving Torbay yesterday, we ordered the *Rupert* to convoy the Exeter colliers (for Wales) to Falmouth.

(*Ships up Channel*):—

Admirals to Admiralty and Trenchard.

Sept. 6 (*e*)[1]. *Britannia*, in St. Helens Roads. The *Rupert* coming in here yesterday with the merchant ships from Falmouth, which want a convoy for the eastward, we do not give Rear-Admiral Nevill charge of them, because your Order concerning his going seems to press, but the first ship you order up shall be directed to take care of them.

Sept. 9 (*e*)[1]. *Britannia.* The *Mary* Galley, coming here from cruising, and being by your Orders bound to the Downs, we have directed her Captain to take charge of what merchant ships are here bound that way.

(2) *Cruisers.*

(*Mountagu* and *Rochester*) :—

May 14 (*e*)[1]. St. Helens.—Have ordered the *Mountagu* and *Rochester* to cruise between Scilly and Ushant till the 20th inst.——May 26. Have ordered them to repair to their former station, and cruise there till 10 June.——May 28. Doubt not but Capt. Foukes has given you an account of his cruise, and of his having taken a French merchantman from Marseilles, bound to Havre-de-Grace,* as also of a great number of ships laden with corn, bound for the East Country.——May 29. Enclose letter from Capt. Foukes [not here].

(*Carlisle*) :

May 24 (*e*)[1]. St. Helens.—The *Carlisle* is gone for Plymouth with the necessary orders for the men of war and merchantmen there, and to cruise off the Start.

(*Goodwin Prize*, and *James* Galley) :—

June 25 (*e*)[1]. Torbay.—The *Goodwin Prize* is now shifting her masts and cleaning. Have ordered her, with the *James* Galley, for scouts off the Lizard and the Land's End, which places are mightily infested with French privateers. Find her of great use, and therefore desire she may be continued with the Fleet.—July 9. The two ships, cruising off the Lizard, have retaken the *Happy Return*, *Batcheller*, *Hope*, and another ship.——July 14. Have sent the *Goodwin Prize*, which has returned from her station, where she was very useful, to Portsmouth as ordered, with empty Victuallers.

(*French Privateers*) :—

June 30 (*e*)[1]. Torbay.—What you write concerning the privateers infesting the coasts, we have disposed of that small number of cruisers allowed us, to the westward, in such stations as we judge proper for the security of the Fleet and guard of the coast, and have not any to cruise to the eastward, unless we make use of some of the line of battle ships, which we do not think reasonable (especially at this time) to separate from the Fleet.

* "Portsmouth, May 28. The *Mountagu* brought into this port a rich French prize," worth 30,000*l.*, laden with silk from Marseilles to St. Maloes."—*Luttrell*, (30 May), iii 107.

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(*Adventure*, *Portsmouth*, *James* Galley, *Swift Prize*) :—

Aug. 27 (*e*)[1]. We have this day ordered the *Adventure* and *Portsmouth* off the Lizard, to cruise 14 days, and the *James* Galley, and *Swift Prize*, to cruise three weeks off the Land's End, and after the said ships have continued on their stations the time mentioned in their orders, they are to go to Plymouth for further orders.

(3) *Various.*

(*Ten Ships ordered to Plymouth*) :—

Aug. 17 (*e*)[1]. *Britannia.*—In a letter from Sir John Trenchard of 9 Aug., which came to our hands yesterday, we have received the Queen's commands, that, as soon as Sir George Rooke should come to us, with the ships that are ordered to join the Fleet, we should forthwith order 10 third and fourth rates of the ships under our command, such as we shall think fit, to go to Plymouth, where they will receive further orders, unless we should have intelligence, that we could depend on, that the French Brest fleet and the Toulon squadron, being joined, since are coming into these seas ; therefore, since we have no intelligence that we can depend on, we will immediately give orders accordingly.

Aug. 17 (*e*)[2]. *Britannia*, in Torbay.—To the same effect as preceding.

Aug. 19 (*e*)[2]. The ships we design for Plymouth are the *Plymouth*, *Dreadnought*, *Lion*, *Mountagu*, *Warspite*, *Winchester*, *Woolwich*, *Carlisle*, *Greenwich* and *Rochester*.

Aug. 19 (*e*)[1]. To same effect as preceding.

Aug. 22 (*d*). *Admiralty Orders.*—In case the said 10 ships have not sailed to Plymouth, they are to keep them with the Fleet till further orders, and, if they are gone, to order them back to Torbay.

Aug. 25 (*e*)[1]. *Admirals to Admiralty.*—*Britannia*, Torbay.—The ships shall remain here as ordered, unless we are forced to make use of some of them to cruise off Cape Clear, Scilly and the Lizard, for securing the return of the West India ships,* on which service you order us to send 6 ships, which we shall do accordingly.

Aug. 24 (*d*). *Admiralty Orders.*—Notwithstanding the Orders of 22 Aug. they are to employ the said 10 ships as there shall be occasion, in the same manner as the other ships in the Fleet.

Admirals to Admiralty and Trenchard.

Aug. 27 (*e*)[1]. *Britannia*, Torbay.—In accordance with your Order of the 24th, sent by express, we have directed some of the 10 ships on other services.*

(*Frigates to Cape Clear for intelligence*) :—

July 9 (*e*)[2]. Torbay. Have received yours of the 7th inst. signifying the Queen's commands for our immediate sending some of the best sailing frigates towards Cape Clear and the coast of Portugal, to get what intelligence they can of the enemy or of the Mediterranean Squadron. We shall accordingly give directions to such frigates as we have, notwithstanding we are already in want of scouts for the necessary service of the Fleet. When these frigates are gone, we shall be forced to make use of the ships in the line of battle.

As to that part of your letter, wherein her Majesty commands us to direct the frigates to meet us again in such stations as we shall think

*See (1) above.

most probable for them to join the Fleet, we know not which way that can be done, because we shall be under a necessity of removing our stations, as we shall receive intelligence, or think fit by a Council of War.

We shall not fail, according to her Majesty's commands, to give strict orders to keep secret their Orders, and hope the same care will be taken elsewhere.

July 11 (*e*)[3].—Torbay.—We stated in our last that the scouts we have are not sufficient for the service of the Fleet, and those appointed upon several stations, as is needful, only the *Portsmouth* and *Swift*. The latter we were forced to send in to clean, through her foulness sailing very heavy. The *Portsmouth* should be sent to clean, but as yet we cannot spare her. So that by this you may see we cannot immediately send such frigates as are proper for Cape Clear and Portugal, but as soon as possibly we can, we shall not fail of doing it. But we believe the Admiralty Board, out of the ships which they keep to themselves, might spare ships to go upon these two stations, or at least upon one of them.

July 16(*e*)[2].—Torbay.—As soon as we shall meet with our scouts (which are upon stations, as we have already acquainted you), we shall send such of them for the coast of Portugal and Cape Clear, as shall be most proper. It will fall in course, after they are gone, that the lesser ships of the line of battle be employed as scouts, and we shall take such care, that their distance shall be such, as they shall be able to join the Fleet in case of action.

July 23 (*e*)[2]. About 40 leagues S.W. from Ushant.—According to the Queen's commands in your letters of 7th and 14th July, we did on the 20th order the *Adventure* and *Saudadoes* towards the coast of Portugal, and the *James* Galley and *Portsmouth* towards Cape Clear, not being able to do it sooner, for the reasons mentioned to you in ours of the 11th inst.

Aug. 15 (*e*)[1]. *Britannia*, at sea off the Lizard.—The *Adventure* and *Saudadoes*, that we ordered to the Groyne, to get intelligence of the French Fleet, are not yet returned to us. . . . *Postscript.*—Since writing this letter, the *Adventure* and *Saudadoes* are come to the Fleet, and bring the enclosed intelligence from the Groyne. They also acquaint us . . . [See MAIN FLEET (*Movements*).]

Aug. 15. (*e*)[2]. *Britannia*, at sea off the Lizard.—The *Adventure* and *Saudadoes* which we sent for the coast of Portugal, to get intelligence of the enemy, are not yet returned to us.

Aug. 27 (*e*)[1]. *Britannia*, Torbay.—This morning the *Adventure* and *Saudadoes* came in here, the latter bringing in with her a privateer of 4 guns.

(*Lumley Castle to Cadiz*):—

Admirals to Admiralty and Trenchard.

Aug. 17 (*e*)[2]. *Britannia*, in Torbay.—The *Lumley Castle*, which came here with Sir G. Rooke, we shall direct according to the Queen's commands.

Aug. 19 (*e*)[1]. *Britannia*.—We have ordered the *Lumley Castle* on the particular service we have received the Queen's commands for.

Aug. 19 (*e*)[2]. *Britannia*.—All necessary directions (pursuant to those enclosed in yours of 11 August) for the *Lumley Castle* proceeding to Cadiz, are ready, and so soon as wind and weather will permit, she shall be sent away on that service.

1693. (*Baltic Squadron*) :—

— Aug. 25 (*d*). *Admiralty Orders.*—Pursuant to the Queen's com-

No. 765. mands signified this day by Sir John Trenchard, they are to order two ships of the Fleet to join the Dutch squadron, designed for the Baltic, at the rendezvous off the Texel, taking care that one of them be a considerable third rate, with an able and discreet commander, fit to take charge of a considerable squadron.

Admirals to Admiralty.

Aug. 27 (*e*)., *Britannia*, Torbay.—Postcript. About Five afternoon.—Your Order received. The ships we judge fittest for that service are the *Bredah* and *Dreadnought*, we having no other choice for winter voyage, unless we send 80-gunned ships; and we cannot think of a properer person to command the squadron than Rear-Admiral Hopson; we therefore despatch this to you by express, and desire your approbation and farther pleasure thereabout may meet us at St. Helens by express also, which we presume will occasion no delay of the service.

Aug. 29 (*e*)[1]. *Britannia*, St. Helens.—We expect your further directions concerning the ships to be sent to the Texel, to join the Dutch squadron designed for the Baltic, as we acquainted you in our last of the 27th inst. We desire to know for what time they must be victualled, observing to you that the *Bredah*, which we think is a proper ship for that service, is manned but to her middle complement, wherein we desire your further directions.

Admiralty Orders.

Aug. 29 (*d*). To send Rear-Admiral Nevill with the two ships; but, if the ships shall have already sailed, to order him to come to town by land, as soon as possible, and attend the Board.

Aug. 30. (*d.*) In reply to their letter of yesterday desiring directions, &c., they are to have the *Bredah* and *Dreadnought* victualled with four months' dry provisions, and as much beer as they can conveniently stow. The *Bredah* is to be manned out of the great ships, where they can best be spared, with as many men as will complete the number she has already to her highest complement. The ships are to be sent off with all possible despatch.

Sept. 2 (*e*)[1]. *Admirals to Admiralty.*—*Britannia*, St. Helens Road. We have delivered Rear-Admiral Nevill your Commission for being Commander-in-Chief of their Majesties' ships designed for the Baltic sea, and administered to him the Oaths and Test according to your Order sent us for that purpose (which comes without the office seal, as is mentioned therein). In pursuance of your Order of 30 August, we have ordered the *Bredah* and *Dreadnought*, which are the ships appointed for that service (observing that the *Bredah* is to be manned to her highest complement) to be supplied with provisions and beer as ordered, and Rear-Admiral Nevill has our order to proceed to the rendezvous of the Texel, in execution of your Order of 25 August.—Sept. 9. *Britannia.*—Rear-Admiral Nevill and the *Dreadnought* sailed this day, with the wind at S.E., a small gale.*

(*Secret Expedition*) :—

Sept. 2 (*d*). *Admiralty Orders.*—Pursuant to the Queen's commands signified by Sir John Trenchard, they are to cause the *Greenwich*, the brigantines *Shark*, *Discovery*, *Spy* and *Diligence*, and

* Nevill passed through the Downs with the *Bredah* and *Dreadnought* on 13th Sept.—*London Gazette*, No. 2906.

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the bomb vessels *Kitchen* and *Salamander*, and also 3 fireships, one of the best sailing ketches, and 2 fifth rates, to be fitted out with all possible despatch for a particular service, and victualled for two months, sending the Board, as soon as possible, the names of the ships and vessels so appointed, and stating when they will be ready.

Sept. 4 (*e*)[1]. *Admirals to Admiralty.*—*Britannia*, at St. Helens.—The *Shark*, *Discovery*, *Spy* and *Diligence*, brigantines, *Kitchen* bomb vessel, and *Vesuvius*, *Flame* and *St. Vincent* fireships, are here, and we have ordered them to fit according to your Order, and Mr. Dummer, Surveyor of the Navy, being now aboard us, has promised to let us know in what time they may be got ready. The *Greenwich* not being here, we design the *Woolwich*, which is just now come in from Plymouth, in her room. All the fifth rates are ordered on other services, after discharging which, they are to go to Plymouth and await your further Orders, as already stated. . . . . The *Salamander*, bomb vessel, formerly of the Mediterranean Squadron, is left in Ireland, and so cannot be applied to the service mentioned. Sept. 6. Mr. Dummer tells us the ships would be fitted in five or six days. The *St. Vincent's* head being loose, the *Strombolo* is ordered in her room.

Sept. 6 (*d*). *Admiralty Orders.*—Her Majesty having directed that 250 men, with 25 Serjeants and 6 Commission Officers of the Marine Regiments be put on board a squadron of 6 fourth and 4 fifth rates, which are ordered for particular service, of which number are the *Oxford* and *Weymouth*, now at Portsmouth, they are to put on board those two ships a fitting proportion of the said Marine Officers and soldiers.

Sept. 9 (*e*)[1]. *Admirals to Admiralty.*—Your Order received by yesterday's post. We do not know what other fourth or fifth rates you will order for that service, and therefore desire your further notice, whether the said officers, &c., should be put on board the *Oxford* and *Weymouth*. We desire to know your pleasure as to substituting the *Woolwich* for the *Greenwich*, as proposed.

Sept. 12 (*d*). *Admiralty Orders.*—To turn over from other ships in the Fleet into the *Weymouth*, *Woolwich* and *Oxford* enough men to make up the number now on board each of them 30 above the complement allowed them for Channel service.—Sept. 14. Whereas the 6 fourth and 4 fifth rate ships, viz., the *Weymouth*, *Woolwich*, *Oxford*, *Falmouth*, *Dartmouth*, *Bristol*, *Mary* Galley, *James* Galley, *Portsmouth* and *Smyrna Merchant*, are appointed to be fitted out for a particular service, they are to cause a fitting proportion of the Marine Officers and soldiers, directed to be put on board the said ships, to be forthwith put on board the *Weymouth*, *Oxford* and *Woolwich*, now at Portsmouth, and such of the said 10 ships as shall arrive at St. Helens or Spithead, before the Admirals coming from the Fleet, the remainder to be left on board the great ships, which are ordered to remain at Spithead, to be distributed to the rest of the said 10 ships, as they shall come thither. They are also to cause such of the 10 ships as shall arrive before the great ships, ordered about, shall come away, to be furnished with as many men from the Fleet as will make up the numbers now on board each of them 30 above the complement allowed them for Channel Service, which will be paid according as the other turned over men are.—Sept. 14. To give account how many men are wanting on board each ship designed on particular service, which is to have men turned over to it, as directed, to make up its complement, and from what ships they shall determine to supply them.

Admirals to Admiralty.

Sept. 14 (*e*)[1]. *Britannia.*—We observe your approbation of the *Woolwich's* going on the service the *Greenwich* was designed for

1693. — No. 765. . . . . With reference to your Order of the 12th inst. for turning over into the *Weymouth*, *Woolwich* and *Oxford*, as many men as will make up the number now on board each of them 30 above their complements for Channel Service, we understand this to mean the highest complement, otherwise we desire it may be explained to us, and the *Cambridge* to her highest complement, and into the *Dover* as will be sufficient to sail her about into the River of Thames. We shall give orders as directed, and have the turned over men acquainted that they shall be paid the wages due to 31 March last, before they sail from Portsmouth (*see* also Sept. 19 (*e*)[1]). We want your further directions about distributing the 6 Commission Officers, 25 Sergeants and 250 men of the Marine Regiments, which your former Order about them seemed to be doubtful in, for that there are not the number of fourth and fifth rates here, which the said Order mentions they should be proportionably put on board of, and if the said Marines be removed by the great ships going up, before we know your further pleasure therein, we desire to be informed, whether they must be borne as part of the ships' companies they come from, or the ships they are ordered to.

The *Woolwich*, with the fireships and brigantines, which our letter of 6 Sept. mentions would in 5 or 6 days be ready, are now ready and victualled for 2 months, as directed.

Yesterday the *Portsmouth* frigate came in here, and is now at Spithead, to attend your further Orders. [*See* also MANNING THE FLEET (*Turning over Seamen*)].

Sept. 16 (*e*)[1]. The weather has been so bad and uncertain these two or three days (as it continues still), that we cannot get the accounts directed in your Order of the 14th inst. . . . . Since the closing of this we have got such accounts from the several ships as enable us to send you the enclosed List. Sept. 18, 25, and 27 (*d*), and Sept. 20, 23, 25, 27, and 28 (*e*)[1]. [*See* MANNING THE FLEET. (*Turning over Seamen*)].

(*Muster Masters*):—

Sept. 2 (*e*)[1]. *Britannia*, St. Helens Road.—The *Mariana* and *Rupert* Prizes, appointed for the Muster Masters, we have not employed on other services than they were designed, except that the *Rupert* Prize was once made use of for three or four days as a scout, there being an absolute necessity for it at that time, the other scouts (which are very few) being employed on proper services of the Fleet. After this time, she was no more employed by us, but wanting a main-mast, was ordered to Plymouth the 25th of June, and we heard no more of her till our coming to Torbay the 16th of August, where we received a packet by her from Plymouth, and before her coming again to the Fleet, having lost her boat and two anchors, we ordered her a second time to Plymouth, to be supplied with what was necessary. The Muster Master of the Blue applying to us on 5th August for the *Kitchen* bomb yacht to attend him in the discharge of his duty, we immediately ordered her accordingly.

V.—MANNING THE FLEET.

(*Supply of Seamen*):—

Feb. 6 (*e*)[1]. London.—Have considered, as desired, of the best method for manning the Fleet, and desire the Board's concurrence in the following proposals, viz.: (1) that the R's should be taken off of such seamen as appear on board their respective ships, provided they have been put on since the King's proclamation; (2) that all who have

been absent without leave shall be mulcted, as shall seem fit by a Flag Officer and the Comptroller of the Pay, and (3) that no men be made run till the ship be paid, according to the late Proclamation, and the mulct to be stopped out of the same pay. Also, (4) that to encourage seamen's coming in speedily, the Queen should allow a month's bounty to each man entering himself before 20 March, in order to his coming on board any of the first, second, third or fourth rates, and being actually on board any of those ships or tenders, bound to the Fleet, by 2 April. Also, (5) that no Protections be granted by the Victualling Office, Ordnance Office or Custom House to men fit to serve in the Fleet, beyond what the necessary duty of those Offices requires, and (6) that all watermen, including those of the King and Queen, as has been done before in a like emergency, be liable to be pressed; also (7) that care be taken to send such numbers from Scotland to the Fleet as can possibly be procured in due time, (8) that the pay of all seamen entering themselves as volunteers should commence, as it did last year, from the time of enlistment, and (9) that they may have power for this expedition to take off such R's as they shall see reason for.

Feb. 18 (*e*)[1]. London.—Bad accounts received from officers who are pressing in the West. Few or no volunteers coming in for want of usual encouragement, and, as to pressing, the seamen fly from them wherever they come, and are countenanced and protected by those who ought to assist in getting seamen for the Fleet. Mr. Hugh Raymond and Justice Osborne, two gentlemen near Dartmouth, who have by all accounts been ready and serviceable, are now so far discouraged that they have been arrested, and are now sued by one Justice Lee for having impressed a seaman protected by him, who seems to be an able seaman, not over 40, and of a strong body. This proceeding has encouraged seamen in those parts to dispute the authority to press them, and we fear will be of the last ill consequence; and the two gentlemen are likely to suffer at the next Assizes, unless you speedily justify the orders for impressing seamen which you have given them.

March 11 (*e*)[1]. Blackstakes.—Officers employed for getting of men report to their Commanders that small progress is made as yet, and that they have no great hopes their endeavours will answer the end of manning the Fleet. Desire some speedy course may be devised, as there is no time to spare.

March 22 (*d*). *Admiralty Orders.*—Not to impress any men employed by, and having protections from, the Commissioners for transportation.

Admirals to Admiralty.

May 1 (*e*)[1]. Downs. — Have thought it necessary to leave Captain Wyvill to bring the men that shall be left behind, or any ships bound to the Fleet. . . . . Hope they will take effectual care that the Fleet may be timely supplied with such a number of seamen as shall be found wanting of their complement. They have reason to fear the number will be much greater than was represented, which they will give a particular account of when they come to Spithead.

May 14 (*e*)[1]. St. Helens.—Enclosed is the account which we promised of what men were actually on board, and what are borne in the Fleet.

(*Particular Ships*) :—

May 8 (*e*)[1]. St. Helens.—Both the *Norfolk* and *Sussex*, appointed to be of the line of battle in lieu of the *Windsor Castle* and *Eagle*, are

1693. — No. 765. in a very ill condition as to men, nor can we see that they can be made capable of sailing with the Fleet.

May 14 (*e*)[1]. St. Helens.—Have put the *Norfolk* and *Winchester* in a condition, in point of men, to sail with the Fleet, if their guns and provisions can be got in time.

Aug. 22 (*e*)[1]. Torbay.—We offer to your consideration that the ships which were of Sir G. Rooke's Squadron are but at their middle complement.

(*Returns*):—

Aug. 30 (*d*). *Admiralty Orders.*—To ascertain from the Commanders and report to the Board, what number of men were on board their ships when paid, that belonged to them the last year; how many volunteers on board received their Majesties' bounty this year; how many men have been pressed by their Lieutenants or otherwise, since the time of the ships' fitting out; and how many men they have received this year from the Vice-Admirals and Lord Lieutenants of the respective counties.

Admirals to Admiralty.

Sept. 2 (*e*)[1]. *Britannia*, St. Helens Road.—On receipt of your Order yesterday, we immediately gave our directions to all the ships with us, and we shall do the like to any other we meet with, that were of the Fleet under our command; and as we are enabled by the returns made us, the same shall be transmitted to you.

Sept. 14 (*e*)[1]. Enclosed you have the returns made from the Officers of the Fleet, in pursuance of our directions, correspondent to your Order of 30 August, with an abstract or list of the ships concerned.

(*Pressing*):—

March 11 (*e*)[1]. Blackstakes.—The two lieutenants of the *Ossory* and *Duchess* you ordered to be sent up are not yet returned from pressing.

April 28 (*d*). *Admiralty Orders.*—To make satisfaction out of the contingent money in their hands, to the Commanders sent from the Fleet this year to inspect into and regulate the impresting men in the Thames.

Admirals to Admiralty.

May 1 (*e*)[1]. Downs.—Enclose a list of the Captains that served weekly in regulating the press last year.

(*Supernumeraries*):—

May 14 (*e*)[1]. St. Helens.—What you mention of Sir George Rooke having supernumeraries by our orders, it is very true we did direct him (believing it for the Service, and what has ever been practised) to give orders to all ships to use their best endeavours in the procuring of men for manning of the Fleet, and if any was so lucky as to get supernumeraries, to bear them in a list for the completing of the ships of the line of battle; but, having this day ordered Sir George Rooke to discharge all supernumeraries that are with him in his ship, or any other belonging to his Squadron, he positively affirms to us he has none.

(*Privateersmen*):—

Admiralty Orders.

April 3 (*d*). Pursuant to Order in Council of 30 March, they are to order the Captains of men of war to take half the seamen from any English privateer they meet, and dispose of them where most wanted in the Fleet, the Captains to give the Commander of the privateer a certificate, with the names of the men taken.

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May 9 (*d*). Pursuant to Order in Council of 4th inst., they are to direct the Commanders to forbear further to execute the above Order.

May 14 (*e*)[1]. *Admirals to Admiralty.*—St. Helens.—Will give orders accordingly, as soon as possible, that no more men be taken out of privateers.

(*Soldiers*):—

May 4 (*d*). *Admiralty Orders.*—E. Nottingham, by letter of 2nd inst., having signified the Queen's pleasure that the 5 Regiments of foot, ordered to be embarked on the Fleet,* shall have the same provisions as the seamen, while on board, they are to dispose of the regiments on board such ships as are most in want of men, causing them to be borne as part of their complements in victuals only.

May 8 (*e*)[1]. *Admirals to Admiralty.*—St. Helens.—Above Order shall be observed, but as yet we know not where the Regiments are. When it shall be thought convenient to receive them on board, we desire that each man should have bedding, it being the practice of the Dutch war, to prevent their being sick, which will necessarily happen in case they be not so furnished.

May 8 (*e*)[2]. *Admirals to Trenchard.*—St. Helens.—As to the soldiers designed by Her Majesty to be put on board the Fleet, we hear nothing of them as yet; but, when it shall be thought convenient to receive then, we do think it absolutely necessary for the Service, that each man be provided with bedding, lest, through the want of that conveniency, and lying on the boards, they become sickly, and consequently unserviceable.

May 10 (*d*). *Admiralty Orders.*—To embark the soldiers at Portsmouth, as they arrive and are ready to be put on board, so that they may remain on shore as short a time as possible. The soldiers, being ordered to be borne as part of the ships' companies, and subject to the officers of the ships on which they serve, in order to preserve a good correspondence between seamen and soldiers, in case of misdemeanour of any of the soldiers, deserving public punishment, the chief land officer on board is to be advised with.

Admirals to Admiralty and Trenchard.

May 11 (*e*)[2]. St. Helens.—We are very glad to hear that the soldiers are ordered bedding, which will be a means, to a great degree, to prevent their falling sick, and infecting others, and desire all diligence may be used, that the bedding may be shipt with the soldiers. . . We this morning have an account from the Governor of Portsmouth, that two regiments are ready to embark, but desired a day's notice, that he might get other soldiers in their room. We shall take such care for their being shipt as may be needful.

May 14 (*e*)[1]. St. Helens.—The two regiments, which are at Portsmouth, we this day are shipping, and intend to take in two more when they shall arrive, the *Windsor Castle* and *Eagle's* men having supplied us in proportion to the fifth. Likewise Sir John Ashby

* "Five regiments are ordered to embark at Portsmouth on board the Fleet for some secret design," *Luttrell* (May 2), iii, 89. *Burchet* (quoted in Ralph ii., 455) explains the reason of their employment, viz, "There was so great a want of men, that it was at first proposed, and in part executed, to take half the seamen from all privateers, and that no better remedy could be at last found than to embark five regiments of foot." The 5 regiments ordered to Portsmouth, were Sir David Collier's, Col. Tiffany's, Col. Lloyd's, Col. Ingoldsby's, and Col. Hamilton's, *Luttrell* (May 2), iii. 89. According to *Campbell* (Lives of the Admirals iii., 122) the regiments were put on board, "with a view to the disembarkation at Brest, which was a scheme of some of the land generals."

1693. — No. 765. has desired to take 250 men out of the *Victory*, which he could not well trust, and put them on board the *London*. In their room we have ordered two companies of soldiers on board the *Victory*, which will enable them to follow the work.

May 18 (*e*)[1]. St. Helens.—The bedding designed for the soldiers is not yet come, and if the Fleet should sail before it does, it is to be doubted they will not only fall sick themselves, but infect the Fleet, which will be of very ill consequence. . . . We apprehend your Orders directing the land officers being consulted about the punishment of soldiers may be of ill consequence, as being contrary to the discipline of the Navy, there already appearing some little disputes on that score; nor can we see by your Order but, in matters of consequence, where a soldier is to be punished, the chief land officer may lay claim to sit at our Court Martials.

May 22 (*e*)[1]. St. Helens.—The bedding intended for the soldiers is not yet come to us. Here are 500 beds come to Portsmouth, which we rather believe are for the seamen, Capt. Clements having 100 appointed to him for the use of his ship's company, and other ships have received some for the same purpose. We apprehend it would be for the Service, if we were acquainted when the said bedding will come, and how it must be charged.

May 24 (*e*)[1]. St. Helens.—There is yet one third of the bedding, designed for the soldiers, not come. Such as is, has been proportionably disposed of to each regiment, though we are in the dark how to give orders for the charging them.

Aug. 27 (*e*)[1]. *Britannia*, Torbay.—For the better manning the cruising ships, and such as are likeliest to be continued abroad for the winter service, we have ordered several of the land forces that were in the Fleet, to be put aboard the ships ordered up to Chatham, which are sailed, and pressed seamen to be returned in their room for such ships as are in want of them, and where there are not pressed seamen to answer the number of landsmen that have been removed, to give other men in lieu, as they stand upon their ships' books, with their tickets and clothes, &c.

Sept. 6 (*d*). *Admiralty Orders.*—To disembark at once the four regiments.

Admirals to Admiralty.

Sept. 9 (*e*)[1]. *Britannia.*—With reference to above Order, the Lieut-Governor of Portsmouth who has a route of the four regiments' march, desired that two of them may be landed to-day, the one at Southampton, and the other at Gosport, which we have ordered accordingly; and the other two, weather permitting, will be put on shore on Monday next at the same places.

(*Turning over Seamen*):—

Feb. 8 (*e*)[1]. London.—Capt. Hopson informs us he has supplied, by your orders, the *Boyne*, *Kent*, *Hope* and *Hampton Court* with 570 men out of the first and second rates. Your Lordships cannot choose but imagine that the manner of your sending this Order has been without any regard had to us that command the Fleet. We cannot but believe we ought to have been acquainted with it, and all things else relating to the Fleet, and especially in so nice a matter as your late Orders were. We know not what opinion your Lordships may have of it, but think ourselves obliged to let you know ours, and especially in a matter of so great a consequence and at such a juncture. We think that the turning men over will be a general

dissatisfaction and, we fear, of ill consequence, having observed by experience that nothing can be more grievous to the seamen than turning them out of one ship into another; and, admit you should think fit to continue this way of proceeding, we can have no prospect that the great ships can be manned in time, and consequently the whole line of battle will become insufficient. That you may not imagine that this is a bare suggestion of our own, we have this morning received an account, from several officers, of the dissatisfaction that already appears among them.

March 11 (*e*)[1]. Blackstakes.—Desire that men may be ordered to be turned over from the *Wolf* or some other ship not fit to go to sea, to the *London*, *St. Andrew* and *Windsor Castle*, whose defects, for want of men, we cannot see are possible to be remedied, till the vessels return from pressing, nor can we depend upon that.

March 27 (*d*). *Admiralty Orders.*—Information having been given that several seamen have, by order of the Flag Officers, been taken from their Majesties' ships appointed for cruisers and convoys, thus rendering them incapable of performing the service, they are to give orders that no men be taken from any of their Majesties' ships which are not appointed to be of the Fleet under their command.

Admirals to Admiralty.

April 9 (*e*)[1]. Buoy o' th' Nore.—Propose to turn over to other ships of the line of battle the ship's company of the *Defiance*, and also such men of the *Eagle* as her Captain cannot absolutely depend on, each of those ships wanting repairs.—April 10. Have ordered 50 of the *Wolf's* men into the *St. Andrew*, there remaining 50 there to imprest seamen, besides 28 said to be sick on shore, and 10 absent by leave. For better securing the *Eagle's* ship's company, we have ordered that the pay of the men turned over from the *Plymouth* into the *Eagle* remain in Commissioner Gregory's hands, or the Captain's, till the ship returns to Spithead, and that the *Eagle's* particular seamen who are paid, do the same, the Captain being jealous they will leave the service, if not so obliged. We are informed that 50 of the *Defiance's* men were ordered out of Portsmouth by Rear-Admiral Aylmer, and several others left there. We have not as yet disposed of the remainder, believing them to be few enough to do her necessary work as yet, or till your Lordships shall direct how she is to be disposed of.

May 1 (*e*)[1]. Downs.—We apprehend it will be very injurious to the Service to pay the *Defiance* or any other ship's company, otherwise than the whole Fleet was paid; for we presume men paid clearly off will readily desert the Service, as having no tie upon them, and it may be reasonably suspected others, who are not so paid, will think themselves very ill used.

May 14 (*e*)[1]. St. Helens.—We cannot but take notice to you, that we were very much surprised at L. Berkeley telling us you disposed of such men as were procured by his officer for manning the *Neptune*, to the *Portland*, a ship not belonging to the line of battle; but hitherto we have not found there has been any great regard had either to the proposals we have made, or the endeavours that have been used for the manning the Grand Fleet.—May 22. As for the two fireships at Plymouth, wanting men, the Captains have given us no account of it, else we had found some means to have supplied them before now. We will take them with us as we pass by Plymouth.—May 26. We have ordered Capt. Leake to bring the fireships at Plymouth, and to

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assist them with men from the ships under his command, to enable them to sail in company with him.

Sept. 9 (*e*)[1]. *Britannia.*—We find a great dissatisfaction amongst the seamen in general (who come volunteers) for their being turned over into other ships, contrary to the King's Proclamation, and for your more particular observation we enclose you a paper, that was lately sent us by some Scotch seamen now in the *Norfolk* from the great ships that are already ordered up. We have been necessitated to order men for some of the cruising frigates, and when the four regiments are landed, and the marines ordered out of the Fleet on the particular service you mention, we do not see how the winter squadron and cruisers can be manned, but by turning men into them from the great ships; and that there might be as few volunteers as possible turned over, was the reason we formerly ordered a list to be made by the muster masters of pressed men (believing it a service), which are the first we have ordered or shall order to be turned over.

Sept. 12 (*d*). *Admiralty Orders.*—To give orders that when the 3-decked ships (ordered this day from St. Helens to Blackstakes) arrive in the Downs, they spare so many men to the *Swiftsure* as, with those on board her, will suffice to sail her to Portsmouth, which men will be there paid the wages due to them to 31 March last.

Sept. 14 (*e*)[1]. *Admirals to Admiralty.—Britannia.*—Receipt of above Order acknowledged.

Admiralty Orders.

Sept. 12 (*d*). To turn over from other ships in the Fleet as many men into the *Cambridge*, as will make up her highest complement, and, into the *Dover*, as will suffice to sail her about into the Thames; the men to be told they will be paid the wages due to 31 March last, before the ships sail from Portsmouth. [See also PARTICULAR SERVICES (*Secret Expedition*)].

Sept. 13 (*d*). Before sending away the ships and fireships ordered to Blackstakes, Longreach and Deptford [See MAIN FLEET (*Movements*)], they are to turn over as many men from them into the *St. Michael*, *Royal Oak*, *Berwick*, *Warspite*, *Devonshire*, *Cornwall*, *Humber*, *Boyne*, *Russell*, *Sussex* and *Norfolk*, and the *Flame*, *Vesuvius* and *Strombolo* and the other six fireships, which they shall direct to remain at Spithead, as will make up their numbers to their highest complements, and to let the men so turned over be informed, that, before sailing from Spithead, they shall be paid the wages due to them to 31 March last.

Sept. 13 (*d*). To cause such of the ships now cruising, as shall come to St. Helens before they send away the ships from thence to the eastward, pursuant to Orders, to be furnished with enough men to complete what they have on board to the highest number allowed them.

Sept. 14 (*d*). See under PARTICULAR SERVICES (*Secret Expedition*).

Admirals to Admiralty.

Sept. 14 (*e*)[1]. *Britannia.*—[See under PARTICULAR SERVICES (*Secret Expedition*).] We must observe to you that, since the landmen are ordered ashore, and some of the Marines on a particular service mentioned in your Order of Sept. 6, the great ships which came about, can ill spare their men, therefore we shall order as few from them as possible, and direct the ships which are to continue here to spare what reasonably they can for the services directed in your Order of 12 Sept.: and if you think fit, when the great ships are brought about in safety,

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you may order what men you judge necessary from them to be sent to the ships which continue here . . . . In another Order of the 12th inst., we are directed, when the great ships come into the Downs, that they spare as many men to the *Swiftsure* as will be sufficient to sail her to Portsmouth.

Sept. 16 (*e*)[1]. *Britannia*, at St. Helens.—You order so many men to be put on board the ships which are to continue here, and those designed for other services, that we do not think it will be safe to venture the ships about with what men they will have left, after your Orders are put in execution. . . .

Upon the whole matter, we do not find the ships in the Fleet so manned, as to enable us to observe your several Orders; therefore, for your better satisfaction, having a slatch this morning, we called a Council of War of English Flag Officers, a copy of whose Result we have here enclosed, whereby you may observe that it is their opinion it will be very hazardous to carry the ships about with less men than their lowest complements. We therefore despatch this by express, and desire we may know your further pleasure by express also, remarking to you, that the soldiers which have been put ashore, and the sick men, we conclude, have reduced most of the ships which are to go about to near that state already.

Sept. 16. (*d*). *Admiralty Orders.*—To cause nine men (named) to be discharged from the *Flame* fireship, in order to their serving on board the *Defiance*, and to furnish the *Flame* with so many men from the ships ordered from the Fleet, as will complete the number allowed her, which men will be paid their wages, due to 31 March last, before sailing from Spithead.

Sept. 19 (*e*)[1]. *Admirals to Admiralty.—Britannia*, at St. Helens. —Have carried out above Order.

Sept. 18 (*d*). *Admiralty Orders.*—With reference to their letter of 16 Sept., as to the danger of bringing the ships about with less than their lowest complements, they are, after turning over so many men from the said ships as to reduce their numbers to their lowest complements, to turn over so many as shall be wanting for the ships designed for particular service, pursuant to late Orders, from the *St. Andrew*, *Neptune*, *Vanguard* and *Grafton*, and then order the said four ships into Portsmouth harbour, and supply them with men, if necessary, to carry them thither.

Admirals to Admiralty.

Sept. 19 (*e*)[1]. *Britannia*, at St. Helens.—On the 16th inst., by express (which we hoped to have had return of yesterday) we sent you a list of the condition of the Fleet in point of men [see PARTICULAR SERVICES. (*Secret Expedition*)], and the Result of a Council of War of English Flag Officers, held on board us that day, wherein it was represented that it was not advisable to venture the great ships about with fewer men than their lowest complement, which the said list making appear would be very much short of, after the ships designed for other services are supplied, according to your Orders, we are therefore at a loss what to do, being very apprehensive of the season's advancing, which will put the great ships in hazard in coming about. We therefore do most earnestly recommend to you, to let us have the speediest directions you can how to proceed, offering you our opinions, that the great ships be brought about with the number of men advised by the Council of War, and after their being in safe harbours, what men you think fit may be returned to man the Fleet there; for, as the case stands, we cannot think of a better expedient.

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Sept. 20 (*e*)[1]. *Britannia.*—Your Order of 18th inst., for sending the *St. Andrew*, *Neptune*, *Vanguard* and *Grafton* into Portsmouth harbour, and turning their men over into other ships, shall be executed. Sept. 23. Gosport.—Your said Order leaving us in some doubt to what ships the men should be turned over, we conclude it means most expressly for the ten ships designed for a particular service; and such of them as are here, vizt., the *Woolwich*, *Oxford*, *Weymouth*, *James* Galley and *Portsmouth*, we have ordered to be supplied with enough men to complete them to 30 each above their highest complements, but the other five ships for the said service not being here, we can give no directions about, and therefore we have ordered Sir G. Rooke to order only one of the four ships (vizt., *St. Andrew*, *Neptune*, *Vanguard* and *Grafton*) into harbour, after the *Flame*, *Vesuvius* and *Strombolo* fireships, and *Cambridge* are supplied to their highest complements, and the *James* Galley, lately come in, with 30 men more than the said complement, and the other three to continue still at Spithead for manning the five ships designed for particular service, as they come in, which we take to be the intention of your Order. But if you would have the men aboard of the three other great ships, turned over for the ships which are designed for the winter service, and the said great ships go into harbour immediately, you may please give your directions in it, which we presume the doing of is not of consequence enough to keep us here, and any Flag may discharge your Orders therein, when we are away.

Sept. 25 (*d*). *Admiralty Orders.*—They are, as before directed, to cause as well such ships as are now at Spithead, or shall come there—mentioned in the annexed List and designed for the winter service—to be furnished from the four ships, the *St. Andrew*, &c., with as many men as will make up their highest complements, as also such of the other ships designed on particular service, mentioned in the said List, as are now at Spithead or shall come there, with enough men to make up 30 above the highest number allowed them, excepting the bomb vessels, fireships and brigantines, which are to have no more than their established number. And after disposing of the men belonging to the said four ships, they are to order those ships into Portsmouth harbour.

(*List annexed.*)

Ships designed for Winter Service.

Rate.		Rate.		Rate.	
2.	*St. Michael.*	3.	*Defiance.*	4.	*Newcastle.*
3.	*Royal Oak.*		*Eagle.*	5.	*Muscovia Merchant* Store ship.
	Devonshire.		*Cambridge.*		*Saudadoes Prize.*
	Cornwall.		*York.*	6.	*Swift Prize.*
	Russell.		*Monk.*	Fireships :—	
	Sussex.		*Plymouth.*		*Roebuck.*
	Mary.	4.	*Deptford.*		*Vulcan.*
	Humber.		*Carlisle.*		*Lightning.*
	Boyne.		*Winchester.*		*Crescent.*
	Norfolk.		*Greenwich.*		*Fortune.*
	Berwick.		*Rochester.*		*St. Vincent.*
	Warspite.		*Chatham.*	Hospital Ship :—*Concord.*	

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Rate.		Bombs:—	Fireships:—
		Firedrake.	*Strombolo.*
4.	*Dartmouth.*	*Granada.*	*Flame.*
	Norwich.	*Serpent.*	*Vesuvius.*
	Woolwich.	*Mortar.*	
	Weymouth.	*Kitchen.*	
	Oxford.	*Salamander.*	
	Falmouth.	Brigantines:—	
5.	*Mary* Galley.	*Shark.*	
	James Galley.	*Discovery.*	
	Portsmouth.	*Spy.*	
	Smyrna Merchant.	*Diligence.*	

Admirals to Admiralty.

Sept. 25 (*e*)[1]. Gosport.—Our last was of the 23rd inst., since which is come to our hands yours of the 22nd, whereby we take notice that, in order to the sending down men from the ships ordered about for the manning those designed for particular service (by which we now conclude you mean as well those intended for the winter squadron, as those named apart for a particular service) you would have a list of what have been already turned over from the ships gone about, and the *St. Andrew*, *Neptune*, *Vanguard* and *Grafton*, which are to go into Portsmouth harbour, together with an account of how many men will be wanting to complete the complements of the several ships here for the services they are designed, concerning which matters we have given Sir G. Rooke orders, and when they are returned to us, they shall be laid before you with all expedition.

Sept. 27 (*e*)[1]. We have received yours of the 25th inst., with an explanatory Order concerning the men to be turned over, and an annexed list of the ships, &c. designed for the winter squadron and a particular service.

As we acquainted you in our letter of the 25th by express, we have directed Sir G. Rooke to cause the companies of the *St. Andrew*, *Neptune*, *Vanguard* and *Grafton* to be turned over, correspondent to your Orders, and the said ships to go into harbour, but the weather has been so bad these two or three days, that little progress could be made in it, which has also hindered Sir G. Rooke to give us a list of what men are turned over by directions to him, that we might cause a general State to be made of what men would be wanting (to be sent down for manning the several ships here) for the service designed; which having been thus impeded, we think fit to observe to you, (that you may give such Orders as you shall think fit) that we guess there will need about 2,000 men to supply the ships here to the complements directed. The seamen sicken very much, and by every opportunity they can, do leave their ships, so that, if some care be not taken, and effectual orders given to the civil magistrates for seizing, stopping and securing them in the roads, we conclude it will be impossible to keep the Fleet manned.

Sept. 27 (*d*). *Admiralty Orders.*—Before leaving Portsmouth for town, they are to appoint a Flag Officer to remain at Spithead, and execute such Orders for turning over men on board the ships designed on service, as they have not yet been able to comply with.

Admirals to Admiralty.

Sept. 28 (*e*)[1]. Gosport.—Your Order of 27th received. We have appointed Sir G. Rooke, and directed him to execute Orders, as men-

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tioned, and for better enabling him to do this, besides the particular order we formerly gave him thereabout, we have sent him a copy of your explanatory Order of the 25th inst., with the list thereto annexed.

We herewith enclose you a copy of the Account, stated to us by Sir G. Rooke, of the condition of the ships here as to men and provisions on Monday last [25 Sept.], and also a list, stated by him in pursuance of our orders, of what men are wanting to complete the ships here of the Winter Squadron to their highest complement; which list contains what men he has ordered to be turned over from the *St. Andrew*, *Neptune*, *Vanguard* and *Grafton* to some of the ships of the Winter Squadron, and those designed for a particular service; whereto we add a list of all the men turned over, as well in pursuance of our orders in particular, as those in general to him.

You may please to observe that, with the list Sir G. Rooke sent us, wherein he makes 905 men wanting to complete the complement for the ships already here, he remarks to us, that the 405 men in the column for sick men, are not depended on, and that he apprehended the number of men on board the above-named four ships would hardly answer what are ordered from them, officers, &c., exclusive; besides which, we also recommend to your consideration, what the ships may want that are not yet come in, and the men running away daily on most occasions of going ashore with the boats, as we laid before you in our letter of yesterday's date.

(*Muster Masters*) :—

May 14 (*e*)[1]. St. Helens.—We have not been able to give you so exact an account of the State of the Fleet as to men, for want of the ships being mustered, the Muster Master designed for us not appearing to us since our being on board.

Sept. 2 (*e*)[1]. *Britannia*, St. Helens Road.—As to what yours mentions of the Muster Masters of the Red and Blue being employed in matters wholly foreign to their business, in making lists of the pressed men in the Fleet, we did order the making such lists, judging it for the Service, and they the properest officers to do it, and that it would be no impediment to their business of mustering.

Sept. 14 (*d*). *Admiralty Orders.*—To order the Muster Master of the Red Squadron to come about with the great ships ordered into the Medway, and that the Muster Master of the Blue Squadron continue with the ships directed to remain at Spithead.

Admirals to Admiralty.

Sept. 19 (*e*)[1]. *Britannia*, at St. Helens.—Your order of the 14th is here. We shall give order to the Muster Master of the Blue, and to him of the Red also, if he comes in our reach, but you may observe he was ordered to London, in pursuance of your directions, in the business of the dispute with Capt. Kerr.

(*Raynard Isaacson*) ;—

May 22 (*e*)[1]. St. Helens.—We shall make an enquiry after Raynard Isaacson, and, if he appears the person mentioned in your letter, he shall be discharged.

VI.—Victualling.

(*Insufficiency ; Delay ; Short Allowance*) :—

April 10 (*e*)[1]. Buoy o' th' Nore.—We find by the Captains' accounts of the ships that were to wait on the King, that several species of their sea provisions were wanting when they sailed, besides

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what they have expended since, which we could wish were recruited while the wind hangs out of the way, Portsmouth being but ill provided.

April 30 (*d*). *Admiralty Orders.*—To give effect to Queen's Order of 28 April for putting the men to short allowance of victuals (drink excepted) from 1 May, and to pay them monthly for the same in money, which the Victualling Commissioners have been directed to send down.

Admirals to Admiralty and Trenchard.

May 1 (*e*)[1]. Downs.—No Victuallers in this place as we hear of, bound for Portsmouth . . . Have received your Order, which we dare not venture to put in execution, lest the sailors should be dissatisfied, till we have the money in the Fleet, as was proposed, and that a Commissioner of the Victualling be sent down with it, to issue it out monthly; nor can this be complied with till the Fleet be joined.

May 2 (*e*)[2]. Downs.—We received this day an Order from the Right Hon. the Commissioners of the Admiralty for putting the seamen belonging to the ships in the line of battle to short allowance, but in regard neither the money is sent down for that purpose, as was proposed, nor the ships in the line of battle joined, we judge it not for their Majesties' service to put their Lordships' Order in execution, lest it should give the seamen any disgust; and lest her Majesty should resent ill our not complying with their Lordships' Orders (which we presume to be hers), we desire you will do us the favour to acquaint her Majesty with the reason, which we hope she will be pleased to put a favourable construction on.

May 8 (*e*)[1]. St. Helens.—Several ships that were fitted here, and some that come with us, want provisions, and the Victuallers' Agent cannot promise to supply that want sooner than seven days from the date of this.

May 8 (*e*)[2]. St. Helens.—There is a considerable part of the victualling yet wanting in several ships, and the Victuallers' Agent cannot promise us to supply that want sooner than in seven days, admit the weather prove fair; and, upon a more exact enquiry, we find there will be want of some bread. May 11.—In our last we gave you an account how strong we were, and what want of provisions many ships of the Fleet were in. To the last, we can assure you we have not been wanting in giving directions to the Victuallers' Agent, to make all despatch imaginable, and to let us know in what time he could supply the wants of provisions, and to give it us under his hand, which we herein transmit to you. . . . We have (upon the assurance you have pleased to give us, that the money for paying the seamen's short allowance will be with us) given orders for the whole Fleet to be put to short allowance. As yet we have had no intimation from the Commissioners of the Victualling that they have received any money to that purpose. May 11.—We expect the Victuallers will do their part, that no time may be lost on that score.

May 14 (*e*)[1]. St. Helens.—As to your Order for putting the men to short allowance, we have given directions to that purpose. . . . Have given orders, pursuant to yours, for putting the seamen to six to four men's allowance, but must take notice to you that it was not our proposal that beer should be excepted. May 22.—The reason why he [Rooke] could not be ready [to sail] before is the want of provisions. . . . As to the beer, there is not more in the Fleet than nine weeks; and think it will be very necessary that a supply thereof be lodged at Dartmouth, Torbay being the place, in all probability, we shall oftenest

1693. — No. 765. come to. May 24.—In our Letter of the 22nd we told you the Fleet was furnished with nine weeks' beer, the Victuallers giving us assurance it was so; but apprehending since, it was meant from the time of the Fleet's coming from the Nore, we have caused a more strict enquiry to be made as to that matter, and have here enclosed sent you an account how many days' beer there is on board each ship from the 23rd inst., and doubt not but you will give strict charge to the Commissioners of the Victualling that what beer and other provisions they have for the supply of the Fleet, may be hastened to Dartmouth. May 28.—Here is little or no beer come to the Fleet by this convoy. May 30. We must again remind you of beer for the Fleet, in regard that there is not above 200 tuns come from the Downs with the *Reserve*, insomuch that it is but with great difficulty we can put the cruisers in a tolerable condition of going to sea.

May 30 (*e*)[2]. St. Helens.—We doubt not but all [the ships] will get clear of this place in two or three days, if the want of provisions (but beer and bread especially) does not hinder them; and we hope that such effectual care will be taken that the Fleet may be speedily supplied with beer and what else is like to be soonest wanted, that we may be enabled to keep the sea at proper times. May 30.—As for Sir George Rooke, he is supplied with provisions and credit for his Squadron, and do believe there has been no time lost either on our parts or his.

June 16 (*e*)[1]. The whole Fleet very short of beer, butter and cheese, which will unavoidably oblige us to come in to recruit, according to the result of the last Council of War. . . . . We cannot but observe to you the want of provisions at Plymouth, the Victuallers' Agent not being able to supply the *Rochester* with a month's, when she was last there.

June 22 (*e*)[1]. We are in general want of beer, butter and cheese, as well as other necessaries. We missed the Victuallers upon our coming in here, but this morning they arrived; but by the account the Agent has given us, we find the proportion is so scant that we doubt, unless there be a greater supply at once, we shall spend it as fast as we take it in.

June 22 (*e*)[2]. Torbay.—We were then off the Lizard, in our way to Torbay, according to the Resolution of a Council of War in order to recruit the Fleet with beer, butter and cheese, and such other necessaries as are absolutely wanted. The Victuallers are now coming in, and we are informed by the Commissioners that came along with them of the quantity they bring, which appears to be so inconsiderable that it will in nowise enable the Fleet to put to sea.

June 23 (*d*). *Admiralty Orders.*—To cause a careful account of all the provisions actually on board the Fleet, and when the victualling ships arrive, to cause without loss of time the provisions on board them, and what shall then be in the Fleet, to be distributed in equal proportion, according to the number of men allowed each ship; and, after such distribution to transmit as soon as possible, an account, signed by themselves and the Commissioner of Victualling in the Fleet, of what provisions each ship shall then have. It being likely that the Fleet may stay at sea a considerable time, they are to cause each commander to furnish himself with as much water as he possibly can.

Admirals to Admiralty and Trenchard.

June 25 (*e*)[1]. Torbay.—The enclosed is an account from the Victuallers' Agent here to what time the provisions of each species on board the Victuallers, which are now with us, as also what is on board

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the Fleet, will last, by which you will see the condition of the Fleet in point of provisions. June 25 (*e*)[2].—Same as preceding. June 30 (*e*)[1].—As to the victualling ships that are here, they will this day be all unladen, which is only a supply according to the account we sent you up with our last; and whereas you sent us a list of several ships laden with provisions for the Fleet, we enclosed send you both a list of what are already come, and what are still wanting.

July 1 (*e*)[1]. Torbay.—There is nothing offered to us since our last, and though the wind has been easterly these three or four days, yet there appears to us none of the Victuallers.

July 1 (*e*)[2]. There is not yet come to us any provisions more than what we have already given you an account of, which is all on board, and by the account we have received from the Admiralty of the further supply intended, we do not find that the beer will last us any longer than till the latter end of August. The wind has been now easterly for these three or four days, which gives us reason to doubt the Victuallers are still in the River, and if so, the supply we have had, part of it, if not all, may be expended before the other arrives.

July 4 (*e*)[1]. Torbay.—We have only to acquaint you that the supply of provisions you mentioned should be with us some time ago, is not yet come to us, nor any part of it. . . . The wind has been easterly several days, and, should they lose this opportunity, it may be of ill consequence. Our lying here through the want of provisions is very uneasy to us.

July 5 (*e*)[2]. Torbay.—Touching the latter paragraph of your letter, wherein you are pleased to tell us that her Majesty thinks that the provision of beer till the latter end of August, as is mentioned in our letter of the 1st of this month, is sufficient for our going to sea, we are and ought to be of the same opinion, but have not the beer on board to that time. We with great impatience expect it, having an account that the beer that is coming will serve so long.

The winds are still easterly, and, if the Victuallers are out of the River, we might reasonably have expected them ere this, not seeing any cause for such delay.

July 7 (*e*)[1]. Torbay.—Yesterday the *Sussex* arrived here, with some few small Victuallers in which, as we are informed by the Commissioner here, there is not more than 1,100 or 1,200 tun of beer at most, a quantity much short of what we expected. All possible diligence is used for the taking of it in, and so soon as it is done, we intend to sail, as by a Council of War shall be thought fit, pursuant to her Majesty's Orders. July 9 (*e*)[1].—We have taken on board the Fleet all the provisions that were in the Victuallers which came last to us, and find that the beer we have now will last till about the 10th of next month,* and notwithstanding the other Victuallers are not yet arrived, which would have been much for their Majesties' service. . . . we shall sail by the first opportunity of wind and weather. July 9 (*e*)[2]. —To same effect as preceding. July 11 (*e*)[1].—We have no news of the Victuallers or any other ships except the *Humber* and *Sussex*. July 11 (*e*)[2].—Same as preceding.

July 14 (*e*)[1]. Capt. Coale in the *Dreadnought*, with the Victuallers which you mentioned should come along with him, are not yet come to us, and, in case we should have an opportunity to sail before they do, we shall leave our rendezvous, agreed on by a Council of War, with the Commissioner at Plymouth for all such ships as you shall think fit to send to the Fleet. . . . The *Goodwin Prize* we have sent to Ports-

* The next extract of July 9 adds, "if it proves good."

1693. mouth, pursuant to your Orders, with empty Victuallers. July 16 (*e*)[1]. —We received yours of the 14th, which was brought us by a messenger
No. 765. that came from Secretary Trenchard this instant, wherein you acquaint us that you have sent orders to Capt. Coale, Commander of their Majesties' ship the *Dreadnought*, to proceed with 21 victualling ships, that are under his convoy, to the Fleet, and to proceed according to such directions as shall be left by us at Dartmouth or Plymouth, in case he arrives not with the Fleet before it sails from Torbay, and in case he does not arrive before we sail from thence, you think it necessary that we should leave some other ships to join the said *Dreadnought*, for the greater safety of the Victuallers.

To the first, wherein you desire us to leave directions at Dartmouth and Plymouth for the *Dreadnought* and the Victuallers under his convoy how they shall join us, we know not well how that can be done, otherwise than by leaving the rendezvous at the two fore-mentioned ports, because, as we have already said in our letter of the 9th July to Sir John Trenchard, that the rendezvous must necessarily be altered as a Council of War shall think fit, but especially upon any intelligence we shall receive of the enemy. For the latter part of yours, wherein you think it necessary that some others should join the *Dreadnought*, we intend to leave the *Winchester*, with orders to join Capt. Coale upon his appearing off Plymouth.

We cannot forbear letting you know that we think it a great misfortune that these Victuallers had not arrived us, and if they should not come to us before we sail, or in a very little time after, it would be of ill-consequence by the Fleet's being obliged to come into port contrary to our intentions and what may reasonably be expected.

July 18 (*e*)[2]. Off of Plymouth.—Capt. Coale with the Victuallers is not yet come to us, for whom we have left the rendezvous at Dartmouth and Plymouth, with orders for the *Winchester* to join them.

July 23 (*e*)[1]. 40 leagues S.W. from Ushant.—The *Dreadnought*, with the Victuallers, is not yet come to us, though the winds have been fair several days, and should they not come while they continue so, it would be of very ill-consequence, the apprehension whereof gives us very great concern.*

July 23 (*e*)[2]. Same as preceding.

Admiralty Orders.

July 28 (*d*). Whereas they have stated, in their letter of the 16th inst., that they know not how to leave orders for the *Dreadnought* following the Fleet with the victualling ships under her convoy, otherwise than by leaving the rendezvous appointed for the Fleet at Dartmouth and Plymouth, in regard the stations for the Fleet must necessarily be altered as a Council of War shall think fit, but more especially upon any intelligence they shall receive of the enemy; and whereas it is absolutely necessary that the Board should be constantly informed of any changes of rendezvous, they are in future to send the earliest advice possible of any such changes.

Aug. 2 (*d*). To send an answer to the Board's letter of 20 July, transmitting the dates of several Orders and letters, viz[t].: Orders of June 23, 27, 29; letters of May 30, June 15, 29, July 6, 6, 11, 13. and state particularly what they have done towards taking an account of the provisions, pursuant to Order of 23 June.

* Weymouth, 19 July. This day passed by here 30 sail of Victuallers to the west, under the convoy of the *Dreadnought*, bound for the Grand Fleet.—*Luttrell* (July 22), iii, 142.

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Admirals to Admiralty and Trenchard.

Aug. 15 (*e*)[1]. *Britannia*, at sea off the Lizard.—We have understood by the *Swift Prize*, *Portsmouth*, and *James* Galley, which returned to the Fleet the 4th inst., that the Victuallers had been at sea and missed us,* which we wonder at, considering the many cruisers we sent out to cruise for them, and that, as we have mentioned, other ships did find us, though by hard northerly winds the Fleet was forced to the southward of the station for 4 or 5 days . . . . On the 10th instant we ordered the *Deptford* and *James* Galley ahead to make for the English shore and Torbay, with the like notice [of the Fleet having left for Torbay], and if they met with the Victuallers, to go in with them to Torbay, unless they were so near as it was impossible for them to miss the Fleet. Enclosed we send you also the opinion of the English Flag Officers for the Fleet going to half allowance of beer, in case we reached not to the eastward of the Deadman by the 11th inst., and on the 12th we gave order accordingly . . . . The last intelligence we had of the Victuallers being what we have already mentioned, we hope to find them in Torbay, that the seamen may suffer no longer for want of what is necessary for them.

This goes by the *Devonshire* for Plymouth, to be there forwarded by express.

Postcript.—Since the writing of this letter the *Adventure* and *Saudadoes* are come to the Fleet, and bring the enclosed intelligence from the Groyne. They also acquaint us, that on Friday last they met Sir George Rooke and the Victuallers, together with our cruisers, left as advices on the former station (40 leagues S.W. of Ushant) in the latitude of 47°; whereupon we immediately called a Council of War, the result whereof you have also herewith; since which we have ordered the said ships to cruise for 10 days between the Lizard and Ushant, to give notice to Sir George Rooke, the Victuallers, and all ships that are to join the Fleet, that we are sailing for Torbay, from whence you shall receive a further account of the Fleet.

Aug. 15 (*e*)[2]. On the 4th inst. we received yours of the 23rd of July by the *Swift Prize* from Plymouth, signifying the Queen's pleasure, that . . . . . the victuals of the Fleet should be expended with all good husbandry, upon the uncertainty how long their Majesties' service might require the Fleet to stay out at sea; which we imparted to the Flag Officers at a Council of War, held on board us the 6th inst., and enclosed you have a copy of . . . . . the opinion of the English Flag Officers (sent herewith) for the Fleet's going to half allowance of beer, which accordingly we ordered them to put in execution the 12th of this month. . . . . We wonder very much that the Victuallers should not have joined us all this while, we having constantly sent out ships to cruise for them; for, though by hard northerly winds, the Fleet was forced to the southward of the station for 4 or 5 days, yet at our coming into it again, the *Swift Prize* from Plymouth, and the *James* Galley and *Portsmouth* from Ireland, found us the 4th inst., having parted with the Victuallers the day before; whereupon we immediately ordered the said ships and others to cruise for them; but they not finding them, we have had no intelligence of

* "The 40 English and Dutch victuallers, that sailed from Plymouth the 24th past under convoy of the *Dreadnought*, *Winchester*, *London*, and 5 Dutch men of war, have missed them in the way, nor do we hear what is become of the said victuallers and their convoy."—*Luttrell* (Aug. 19), iii, 165.

1693. — No. 765. them since. . . . . On the 10th we ordered the *Deptford* and *James Galley* to cruise towards the English shore and make for Torbay, for notice to the Victuallers, which we hope at last to find there, that the seamen may suffer no longer under the want of what is necessary for them.

Aug. 17 (*e*)[1]. *Britannia*, Torbay.—Yesterday in the afternoon . . . . the Victuallers with the *Dreadnought* came in here and, as the weather (which is now very bad) will permit, care shall be taken for distributing the provisions and ordering the Fleet to whole allowance of beer again. . . . . Concerning the letters and Orders (by the note you enclose us thereof) which, in your letter of the 20th July you seemed to be dissatisfied that we returned no answer to, although we may not have been nice and particular therein, yet such of them as required our giving any orders on for the service we have from time to time directed to be put in execution, excepting in the matter of the Order of the 23rd of June, which very Order expresses that when the victualling ships coming to the Fleet shall arrive with us, we should then cause the provisions on board them, and what shall then be in the Fleet, to be distributed in such manner as that each ship may have an equal proportion, and, after such distribution, we should transmit to your Board, as soon as possibly may be, an account, signed by ourselves and the Commissioner of the Victualling in the Fleet, of what provisions each ship in the Fleet shall then have on board, which being the extract of your said Order, the execution of it, you may take notice, depended on the Victuallers coming, which was not till after our arrival here; and when everything is disposed as it directs, we shall send you the account in the method required . . . . What we have *further* to add for their Majesties' service at this time is the enclosing you a state of the provisions on board the Fleet on the 14th inst., correspondent to the accounts which have been given us thereof from my Lord Berkeley for the whole Blue Squadron, Vice-Admiral Aylmer and my Lord Danby, and the Captains of our own Division for the Red Squadron.

Aug. 17 (*e*)[2]. The Victuallers came in here yesterday afternoon, and so soon as the weather will permit (it blowing now very hard, as it has done ever since we came in), all expedition shall be used in getting the provisions on board the Fleet.

Aug. 19 (*e*)[2]. *Britannia*.—We have given orders for distribution of the provisions which came with the Victuallers, and shall get them aboard us, so soon as weather will permit, that the Fleet may be in a readiness for her Majesty's further commands.

Aug. 22 (*e*)[1]. *Britannia*, Torbay.—The winter drawing on, it will be great satisfaction to the seamen to go to whole allowance, the 2nd of the next month completing four months at short allowance. We desire they may be put to whole from that time, for the provisions being perishable and not over good, the sooner they are spent the better.

Admiralty Orders.

Aug. 25 (*d*). To appoint proper ships to bring to St. Helens the Victuallers at Plymouth and Dartmouth.

Aug. 29 (*d*). To have a survey taken of how many days' provisions of each species is on board each ship and vessel in the Fleet, and transmit an account to the Board, signed by the Commanders and Pursers.

Aug. 29 (*d*). To order the Pursers to give an account of what sea provisions they have received in specie since the ships' fitting for sea this year, and when received, and how many men they have victualled for a day, how many days' provisions of each species they have on

board for the ships' company at whole allowance; what credits they have had, and when and where and how they were supplied; what provisions they have furnished to other ships, and when and by what order the same was done, and to transmit the said accounts to the Board.

Admirals to Admiralty and Trenchard.

29 Aug. (*e*)[1]. *Britannia*, St. Helens.—According to your directions of the 25th, before our sailing from Torbay [on 28 Aug.], we ordered . . . . . the *Woolwich* to Plymouth and *Mountagu* to Dartmouth, to bring the Victuallers and machine vessels, &c. to St. Helens.

Sept. 2 (*e*)[1]. In pursuance of an Order of the 29th August, we have issued orders to all the ships with us to make such Surveys as you direct about the provisions, and so soon as we have returns made us, the accounts shall be transmitted to you, under the hands of the respective Commanders and Pursers.

We have also, pursuant to another Order of the like date, directed all the ships here with us to cause the respective Pursers to give us an account, as soon as possibly may be, of what sea victuals they have received in specie since the time of the said ships' fitting out for the sea this year, &c., as the said Order directs, and, when the said accounts are brought us, they shall be handed to you. . . . . The Victuallers, which joined the Fleet in Torbay the 16th August, were those which your Order of the 23rd of June (about making an equal distribution, and transmitting to you an account, signed by ourselves and the Commissioners of the Victualling in the Fleet) seems to us to mean as is mentioned in our said Letter of the 17th of August, and in our Letter of the 25th of June, which was before that Order came. The State of the Fleet's victualling, as it was made by the Victuallers' Agent, was sent to you and Sir John Trenchard.

Since our coming last to Torbay, we have endeavoured to have things put into such method, that your said Order of the 23rd of June about the provisions might be answered in every respect, but the badness of the weather, and ships being daily ordered on several services, in pursuance of your Orders, has prevented it; for we have not yet been able to exact any account from the Commissioner of the Victualling, or Mr. Steventon, Agent to the Commissioners of the Victualling, though we gave him a pressing order about it, under the date of the 17th of August, and at the same time issued correspondent orders to the Fleet, as you may observe from the enclosed copies of ours to Commissioner Ayles, and copies of the order given to the Lord Berkeley, Admiral of the Blue, and to one of the Captains of our Division.

Sept. 7 (*e*)[1]. We desire you will give orders that the ships, that were of Sir G. Rooke's Squadron, may be paid the short allowance due to them, for since they are joined, we believe it reasonable that they should fare as the other ships of the Fleet do.

Sept. 9 (*e*)[1]. The *Falmouth*, Captain Beverley, arrived here yesterday with several Victuallers from the Downs, of which we have not yet the particulars.

Sept. 14 (*e*)[1]. We hoped what we acquainted you with in our Letters of the 17th August and 2nd of September (with the copies of orders in the latter) would have satisfied you with our endeavours to put your Orders of the 23rd of June (about provisions) in execution, but the papers, which accompany these, in return of two of your Orders of the 29th of August about the victualling, will (we suppose) put an end to that matter, though we think ourselves obliged to take

1693. — No. 765. notice to you that, notwithstanding our said order to Commissioner Ayles of the 17th of August, he has not yet given us any such account, signed by him or Mr. Steventon, the Commissioners of the Victualling Agent in the Fleet, as would enable us to answer your Order of the 23rd of June, Mr. Steventon having affirmed to us very often that he is not able to state any account of the Fleet's victualling otherwise than by the accounts the Captains of the Fleet send us in; but such an account as they have given us, we here enclose you, which we do not think such as is proper for us to sign, the greatest part mentioning what we know nothing of.

We have acquainted Sir George Rooke with what you write touching his being ordered to pay the men belonging to the Straits Squadron their short allowance of provisions, and he tells us he has no money for it, having returned the credits that were given him for paying the contingent charges of that Squadron. . . . . Enclosed you have the returns, made from the Officers of the Fleet in pursuance of our directions, correspondent to three of your Orders, viz., two of the 29th and one of the 30th of August, and an abstract or list of what ships the said papers concern, under the heads mentioned in those Orders.

Sept. 27 (*e*)[1]. In our letter of the 22nd of August we laid before you our opinions, that it would be for the Service, and great satisfaction to the seamen, to go to whole allowance from the beginning of this month, the approaching winter making it very necessary, and therefore we recommend it again to your consideration.

(*Bad quality of provisions*) :—

July 7 (*e*)[1]. Great complaint is made of the badness both of beer and bread, several quantities of which have already been cast by Survey, and we have great reason to doubt there will be much more: The *Sussex*, which is but just come to us, has made a complaint of defect of both these species. It is generally observed that the provisions have not been so good this year as formerly, especially these two species, though it is our opinion that a great deal of bread has been damnified for want of the bread-room being tinned as heretofore.

July 18 (*d*). *Admiralty Orders.*—To cause notice to be given of any Orders for surveying defective provisions to the Victualling Commissioners or the Victuallers' Agent in the Fleet, and have copies of such Surveys delivered to them.

Admirals to Admiralty.

Aug. 17 (*e*)[1]. When any complaints have been made to us of defective provisions in the Fleet, which required our Order for a Survey, we gave such Orders as have been always practised in the Fleet, and for the future shall give such additional directions as your Order of the 28th of July* requires. . . . . In answer to your Letter of the 18th of July, with a copy of a letter of the 13th of the same from the Commissioners of the Victualling, we have only to acquaint you that Capt. Maine, Commander of the *Sussex*, upon his first coming to the Fleet, complained to us of the badness of his bread, which was the reason we ordered a Survey, and are very glad there was found so little damnified.

Aug. 19 (*e*)[1]. . . . . and in some late Orders for Surveys of unserviceable provisions we have given Commissioner Ayles notice, with copies also of the said Orders for Survey.

* Evidently a mistake for the 18th. *See* preceding letter.

1693. — No. 765.

Aug. 22 (*e*)[1]. Several complaints having been made to us of the badness of the beer that came with the late Victuallers, we have great reason to conclude it will fall very short of our expectation, of which we shall be able to give you a more particular account in a little time.

(*Sale of brandy to seamen*) :—

Aug. 17 (*e*)[1]. As to the information you have had of wine and brandy being sold to the seamen out of vessels with the Fleet, we have (as has been practised formerly) allowed thereof, as judging it for the health of the seamen.

Sept. 2. (*e*)[1]. Our Letter of 17 July* acquainting you what we allowed of for the good of the Fleet about brandy, we desire you will be referred thereto.

Sept. 8 (*d*). *Admiralty Orders.* To send a copy of the Orders given for selling brandy to the seamen of the Fleet.

Admirals to Admiralty.

Sept. 25 (*e*)[1]. We herewith send you a copy of our Permission for selling brandy, &c., in the Fleet.

(*Sale of rations by men*) :—

May 14 (*e*)[1]. Your Letter of the 9th inst. we have likewise received, and as to what you write concerning the Report the Victuallers have made to you, we do not find it was ever the practice to debar seamen of disposing of such provisions as the King allows, after being issued out to them. Yet we do believe, if the Pursers were enabled with money to buy such provisions of the seamen, they might undoubtedly have the preference.

Accounts Commissioners :—

Sept. 2 (*e*)[1]. What is desired by the Commissioners of Accounts, as you signify to us by a copy of their Letter to you, with another Order of the 29th of August, we have given order that the same forthwith be done in the manner prescribed, and that accounts thereof be transmitted to the said Commissioners (which we take to be the meaning of the said Order) by the time limited.

Sept. 12 (*d*). *Admiralty Orders.*—The Commissioners of Accounts having desired an Account to be sent them by the 29th inst. of what provisions were on board each of the ships in the Fleet on 30 May or 1 June last, they are to send them copies of the Returns made of the Survey of the provisions, as desired.

Sept. 14 (*e*)[1]. *Admirals to Admiralty.*—We ordered no such Surveys as are mentioned, nor had any other Accounts made about that time, but what was sent you in our Letter of 24 May, a copy of which Account we desire you will cause to be sent to the Accounts Commissioners.

Sept. 23 (*d*). *Admiralty Orders.*—To send the Accounts Commissioners an answer to what is desired of them, as already directed.

Sept. 25 (*e*)[1]. *Admirals to Admiralty.*—Have this day received above Order. "We hoped our Letter of the 14th inst. would have inclined you to give the Accounts Commissioners satisfaction, we not having, as we advised you, caused any such Survey to be made as was mentioned, and consequently being unable to answer what they expected. We thought you would have done us the favour to have signified as much to them ; but since you think it proper to be done by us, we have written to them on that subject, and enclose a copy of our Letter to them."

* Evidently a mistake for 17th August. *See* preceding letter. There is no letter from the Admirals on 17th July.

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Sept. 27 (*d*). *Admiralty Orders.*—To send the Account of 24 May direct to the Accounts Commissioners, as desired in their Letter.

(*Convoy for Dutch Victuallers*) :—

June 25 (*e*)[1]. *Admirals to Admiralty.*—We are just now desired by Admiral Allmonde, that we would take care that two Galliotts, laden with provisions for the ships of North Holland, now at the Nore, might be under the same protection with our Victuallers, that shall come from the River of Thames or from the Downs. We therefore request your Lordships will give your Orders to the ships appointed for that service, to take them under their convoy accordingly.

VII.—Payment of Crews : Contingent Charges.

Admirals to Admiralty.

May 14 (*e*)[1]. The *Deptford*, which is seen in the offing, we hope will be in to-night, and we doubt not but you will give directions that the fourth rates may be immediately paid, there being much clamour among those people.

May 26 (*e*)[1]. We understand that the money will not hold out to pay all the ships of the line of battle, wherewith we think fit to acquaint you, that a speedy supply may be ordered.

(*Contingent Charges*) :—

May 17 (*d*). *Admiralty Orders.*—Pursuant to Queen's pleasure signified by Sir John Trenchard, they are to pay, out of the contingent money in their hands, 60*l.* to Mr. Moses Jaquean, 40*l.* to Mr. Peter Fountaine, and 60*l.* to Mr. Peter Chasseloup, on account of *pensions*, and to enter Mr. Jaquean, Mr. Peter Fountaine, and Mr. Gode as midshipmen extraordinary on board such ships as shall be most convenient.

May 22 (*e*)[1]. *Admirals to Admiralty.*—The Frenchmen shall be paid, as ordered.

Aug. 19 (*d*). *Admiralty Orders.*—To cause 8*l.* to be paid to Nicholas Manooch, Esq., Mayor of Rye, out of the money for contingent charges in their hands, to reimburse him for the sum paid to several boatmen for carrying off a packet to them from that place.

Aug. 22 (*e*)[1]. *Admirals to Admiralty.*—Your Order of the 19th just received. Payment shall be ordered accordingly.

VIII.—Crimes, Offences and Complaints.

(*Capt. L. Wright and Capt. G. Purvis*) :—

March 22—April 8 (*d*). *Admiralty Orders.*—To cause the complaints against Capt. Lawrence Wright,* for his irregular proceedings during his command in chief in the West Indies, and Capt. George Purvis, late Commander of the hired ship *Wolf*, for embezzling stores, wher in those parts, to be inquired into at a Court Martial, as empowered by warrant of 22nd March last.

Admirals to Admiralty.

April 9 (*e*)[1]. Order shall be executed.

April 10 (*e*)[1]. Neither the Judge Advocate, nor any evidence have appeared to us for the trial as you ordered.

* "Capt. Wright, who commanded our Squadron in the West Indies last year is brought hither under the custody of a messenger." *Luttrell* (12 Oct.) 1691 ii., 293. "Capt. Wright, in prison, is admitted his liberty on bail." *Ib.* (5 Jan.) 1691-2, ii., 330.

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(*Capt. Boteler and Lieut. Ramsey*) :—

April 21 (*d*). *Admiralty Orders.*—To hold a Court Martial to enquire into complaint made by Capt. Leonard Macnar, Commander of a privateer, that when cruising on 3 April off Cape la Hogue, he fell in at night with his Majesty's ship *Mary*, whose Commander, Capt. Boteler, without hailing or making any sign, fired on him all his upper tier and quarter-deck guns, killing one of his men and damaging his rigging, and that on going on board the *Mary*, he found most of her men very much in drink.

Admirals to Admiralty.

May 22 (*e*)[1]. Will send an account, as soon as possible, of Lieut. Ramsey's taking the arms from a privateer.

Sept. 2 (*e*)[1]. As to your directions concerning Capt. Boteler, when he was Captain of the *Mary*, and Lieut. Ramsey, of the *Hampton Court*, touching their behaviour to an English privateer commanded by Capt. Mocher [Macnar], we could not call them to a Council of War, there being no testimony, for the Judge Advocate tells us he has nothing to proceed on, nor can do but by having the witnesses brought face to face. What those officers have to say in their justification will appear by the Relations enclosed.

Sept. 11 (*d*). *Admiralty Orders.*—To send up Lieut. Ramsey to attend the Board.

Sept. 14 (*e*)[1]. *Admirals to Admiralty.*—Have directed Mr. Ramsey, first lieutenant of the *Hampton Court*, to attend the Board forthwith.

(*Padua and Betty*) :—

April 28 (*d*). *Admiralty Orders.*—To hold a Court-Martial for trying Anthony Padaway [or Padua], a Bantamite, for an alleged unnatural offence with Isaac Betty.

May 1 (*e*)[1]. *Admirals to Admiralty.*—Your Order respecting Padua and Betty received, and shall be observed.

(*Capt. Wm. Wright*) :—

April 28 (*d*). *Admiralty Orders.*—Complaint having been made by Mr. Stock, Muster Master and Store-keeper at Deal, against Capt. William Wright, of the *Essex*, for having abused him for mustering his men, and insisting on the officers signing the Muster Book, according to his instructions, and the Board thinking it absolutely necessary for the Service, that all Muster Masters, on shore as well as on the Fleet, should receive all possible countenance in performing their duty, they are to examine into and report upon the matter.

Admirals to Admiralty.

May 1 (*e*)[1]. We have received your letter of the 28th April, with a copy of Mr. Stock's complaint against Capt. Wright. Your Order shall be observed.

May 28 (*e*)[1]. We here enclose Capt. Wright's Answer to the complaint.

(*Harp*, Ketch) :—

May 22 (*e*)[1]. Here is also an account of Capt Cornwall's Ketch, which was ordered to lie upon the Southsand Head, when the great ships came from the Nore to the Downs.

May 28 (*e*)[1]. You will also herewith receive the Master of the Ketch belonging to the *Neptune* his account, touching his being ordered to ride on the Southsand Head.

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June 27 (*d*). *Admiralty Orders.* To hold a Court Martial to enquire into the loss of the Ketch *Harp*, lately taken off the North Foreland.

(*Capt. Wilmot*):—

Admirals to Admiralty.

June 30 (*e*)[1].—Torbay.—Mr. Royden, an Ensign in Col. Ingoldsby's regiment, was (as we are informed) unfortunately killed by Capt. Wilmot. We refer you to the enclosed examinations, which were taken by the Judge Advocate of the Fleet, and desire your directions in this matter. We think ourselves obliged to say something to you in behalf of Capt. Wilmot, which is, by the best enquiry we can make, that Capt. Wilmot and most of his officers were very much affronted by the injurious language which they daily received from Ensign Royden, and do apprehend that the said Royden, as we have heard, was very much instigated thereto by Lieut.-Col. Mountargie, who never could agree with the said Captain since his coming into the *Elizabeth*, though used by him with all the civility he could lay claim to.

Aug. 17 (*e*)[1]. For answer to your letter of 2 Aug., stating that Capt. Wilmot, Commander of the *Elizabeth*, who lately killed an Ensign on shore, ought, as the Attorney General has given his opinion, to be delivered into the hands of Justice, he shall be delivered, when demanded.

(*Thomas Legg*):—

July 7 (*d*). *Admiralty Orders.*—To suspend, till further order, the trial of Thomas Legg, a waterman, for deserting from the *Sandwich*, application having been made on his behalf to the Queen, who has not yet come to any determination.

Admirals to Admiralty and Trenchard.

July 9 (*e*)[1]. Your Order received.

Sept. 4 (*e*)[1]. At a Court Martial held aboard us this day, Thomas Legg was condemned to die, the particular proceedings whereof will be sent you by the Judge Advocate.

Sept. 14 (*e*)[1]. We have received from Sir J. Trenchard the notice of the Queen's pleasure for pardoning Thomas Legg.

Sept. 14 (*e*)[2]. We have received yours of the 8th inst., and thank you for laying before the Queen what we wrote concerning the trial and condemnation of Thomas Legg, whom we understand by your said letter her Majesty has been pleased to pardon.

(*Lieut. Reeves*):—

July 11 (*d*). *Admiralty Orders.*—Lord Berkeley, Admiral of the Blue, having informed the Board, that the King, when on board the *Victory* at his last going to Holland, gave 30 guineas to the ship's company, which was put into the hands of Lieut. Reeves, then on that ship, and now on the *Neptune*, who says he gave it to Sir John Ashby, lately deceased, but has no receipt from him, nor any witness that he paid it him, nor is it yet paid to the ship's company, they are to have the sum paid out of the moneys impressed for contingencies, and inquire strictly into whose hands the 30 guineas came, and how they were disposed of, and give account to the Board, that the sum may be stopped out of the pay of such person as shall appear to have misapplied it.

Admirals to Admiralty.

July 14 (*e*)[1]. The above Order shall be observed.

July 16 (*e*)[1]. We have paid the 30 guineas, and examined Lieut. Reeves, who is ready to swear that he gave them to Sir John Ashby,

and he appears, both in his examination and character, to be an honest man. 1693. — No. 765.

(*Capt. Kerr*) :—

July 13 (*d*). *Admiralty Orders.*—To send Capt. Kerr of the *Lenox* to town, to attend the Board, on a charge of having ill-treated the Muster Master of the Red Squadron, when doing his duty in mustering the ship, the truth of which there is reason to believe.

Admirals to Admiralty.

July 23 (*e*)[1]. Your Order coming to us just as we were under sail, and Capt. Kerr being very sick, we could not send him up.

Aug. 17 (*e*)[1]. For answer to your Letter of 2 Aug., that Capt. Kerr should be ordered to attend your Board, he shall be forthwith ordered to attend you, the reason of its not being done before being given in our Letter of 23 July, of which you have owned the receipt.

Aug. 19 (*e*)[1]. Capt. Kerr has an order to attend you, in pursuance of yours signified to us about him.

Sept. 2 (*d*). *Admiralty Orders.*—To send the purser of the *Lenox* forthwith to town, to attend the Board, as also such other persons as Mr. Wilkins, Muster Master of the Red Squadron, shall inform you are the most proper to give an account of the difference between him and Capt. Kerr.

Admirals to Admiralty.

Sept. 2 (*e*)[1]. What we did to your Order of 13 July concerning Capt. Kerr, our Letters of 23 July and 17 August inform fully; the first whereof giving the reason why we could not immediately put that Order in execution, we again desire you will be referred thereto. On 18 August he had an order to attend you, and Lord Archibald Hamilton, first lieutenant of the *Britannia*, was ordered to take command of the ship during his absence.

Sept. 4 (*e*).[1] Your Letter of 2 Sept. received this day. We have given the proper order to that purpose, and as Mr. Wilkins applies to us, directions shall be given accordingly.

Sept. 14 (*d*). *Admiralty Orders.*—To appoint another Captain to the *Lenox*, in place of Capt. Kerr, whom the Board has thought fit to dismiss.

Sept. 19 (*e*)[1]. *Admirals to Admiralty.*—We have given Capt. Christopher Mings a Commission for the *Lenox*, in place of Capt. Kerr, and Lord Archibald Hamilton a Commission for the *Woolwich*.

(*Capt. Loads*) :—

Aug. 29. (*d*). *Admiralty Orders.*—To enquire into and report as to a complaint made by the Customs Commissioners by their officer at Falmouth against the Commander of the *Saudadoes*, for firing at the boatmen who were going on board the *Mansfelt* frigate, lately arrived from Guinea.

Admirals to Admiralty.

Sept. 2 (*e*)[1]. We have examined Capt. Loads, of the *Saudadoes*, and enclose you the account he gives for his justification, whereto we desire you will be referred.

Michael Cashell :—

Sept. 4 (*e*)[1]. *Admirals to Admiralty.*—At a Court Martial held aboard us this day, Michael Cashell was condemned to die, the particular proceedings whereof will be sent you by the Judge Advocate.

Sept. 18 (*d*). *Admiralty Orders.*—Michael Cashell having lately been sentenced to die for mutiny and desertion, on such ship as the

1693. — No. 765. Board shall determine, the opinion of the Judge of the High Court of Admiralty is enclosed, and if they shall think fit to cause Cashell to be executed, the Board have determined that the same shall be done on board the *Norfolk*, to which he belonged when the crime was committed.

IX.—Appointments and Promotions.

(*E. Danby*) :—

May 1 (*d*). *Admiralty Orders.*—The King's pleasure having been signified to the Board by the Earl of Nottingham, that the Earl of Danby,* Commander of the *Royal William*, should wear such a swallow-tailed pendant as Rear-Admiral Aylmer had, when he commanded a Squadron in the Straits, which the Board accordingly, by Warrant of 31 March last, empowered him to do, and his Lordship having, by letter of 23 April, signified the Queen's pleasure, that my Lord Danby should take his post in the Fleet next to the Flag-Officers, they are to give orders accordingly.

Admirals to Admiralty and Trenchard.

(*W. Parker*) :—

May 20 (*e*)[1]. Capt. Wolfran Cornwall, of the *Sandwich*, having applied for a Master in the place of Walter Barnaby, disabled by wounds, they have appointed William Parker, late Master of the *Windsor Castle*, and desire that Barnaby, who has served for 23 years, may be superannuated.

(*Transfers*) :—

May 24 (*e*)[1]. Capt. Mason having quitted, we judged it for the Service to remove Capt. Billop into the *Victory*, Capt. Jennings into the *London* with Sir John Ashby, Capt. Jones into the *Norfolk*, Capt. Meeze into the *Ossory*, Capt. Killigrew into the *York*, and Capt. Whetstone into the *Crown*.

June 16 (*e*)[1]. Capt. Cotton, of the *Northumberland*, died the 13th, upon whose decease we have removed Capt. Boteler into that ship, Capt. John Jennings into the *Mary*, Capt. Bibb into the *Winchester*, and Capt. Andrew Leake into the *James* Galley.

(*Britannia*) :—

June 30 (*e*)[1]. According to your Order we have sent up John Earle, late boatswain of the *Britannia*, and have appointed the boatswain of the *Duke* in his room.

(*Flag Officers*) :—

May 11 (*e*)[2]. Sir John Ashby hoists his flag on board the *London*, who is at present sick but on the mending hand.

June 16 (*e*)[1]. Sir John Ashby died on the 12th. As to the disposal of such Flags as are vacant, we have not thought fit to meddle, referring it to her Majesty's pleasure, but we judge it absolutely necessary that the Flags so vacant should be filled up, the want of which may be of very ill consequence, if we should come to a battle.

June 16 (*e*)[2]. Same as preceding.

July 9 (*e*)[1]. We received your two letters of the 4th inst, together with the Commissions for the Flag Officers, which we have delivered and administered the Oath to them, according to your directions.

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* Son of the Marquess of Caermarthen.

"The Council have given the Earl of Danby a command of a man of war, with an independent flag." *Luttrell* (April 29) iii. 87.

"Lord Danby is made Commander of the *Royal William*," *ib.* (May 3) iii. 89.

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July 9 (*e*)[1]. Torbay.—Since writing our last, we received a packet by the hands of a messenger from Sir J. Trenchard, wherein he acquaints us that in a letter to him from Mr. Blathwayte, that his Majesty thought fit that Lord Berkeley should be Admiral of the Blue, Rear-Admiral Aylmer Vice-Admiral of the Red, Rear-Admiral Mitchell Vice-Admiral of the Blue, and that the places of Rear-Admiral for the present service should be supplied by the Earl of Danby and Capt. Nevill. For the three first you sent us Commissions, which we received on Friday night last [7 July], and issued them out, as we acquainted you, but for the two latter you have been silent. But, however, upon the notice given us by Secretary Trenchard, we thought ourselves obliged to let you know, that it is needful that these two officers be appointed, as the King intended, it being for their Majesties' service, and we do think accordingly to give Commissions, in case none shall arrive from you before we go from hence.

We must observe to you, that your Order for swearing the Flag Officers does something surprise us; first, being limited only for those three officers, and next you may remember that we discoursed you about having such an Order in general for giving the Oaths. You thought it then not material, but we cannot choose now but think you are of another opinion, so that what to conclude on we do not well know.

July 9 (*e*)[2]. As to that part of your letter, wherein you acquaint us that you received a letter from Mr. Blathwait, wherein he tells you, &c. [see preceding], for the first three we received Commissions from the Admiralty on 7 July, and issued them out the next day, but for the two last we received none, nor knew they were intended, till you informed us of it, and shall give them their Commissions accordingly, the Service requiring it.

July 11 (*e*)[1]. As to that part of your letter of the 4th inst., wherein you desire the Test, signed by the respective Flags, may be returned to you, we do not think it reasonable to do it, they having signed under the same Test with all other Commission and Warrant Officers we have made since our coming to the Fleet, which we apprehend ought to remain with us.

Aug. 17 (*e*)[1]. In your letter of 20 July we received a paper with the dates of the Commissions (signed by you) for the Flag Officers, by which letter you direct, that, if any of them, who are now absent, should happen to come into the Fleet, we may cause them to take post according to their seniority, we judge it for the Service to observe to you, that we know not how to interpret your intentions therein, for Lord Berkeley and the other Flags being commissioned by you, if you would have them removed (as your letter seems to imply), to give the posts to Sir George Rooke and Rear-Admiral Hopson (who are now with the Fleet here), we doubt not but you will send Commissions accordingly.

Aug. 25 (*e*)[1]. We have received yours of the 22nd inst., by express, with Commissions for the Flag Officers, which shall be delivered them, so soon as the weather will permit, it blowing very hard at S.S.E., and at the same time we shall administer the Oaths and Test to them, according to your Order of the 22nd to that purpose.

Aug. 27 (*e*)[1].—Torbay.—All the Commissions sent for the Flag Officers are delivered, and the Oaths and Tests administered to them, except Lord Berkeley, who being at Exeter, (with our leave), and indisposed, we expect his return.

Lord Danby's and Rear-Admiral Nevill's Commissions for Flags being superseded by those you lately sent, we desire to know your

1693. — No. 765. pleasure concerning them on these heads, whether they shall remain in the ships they are, and be allowed second Captains, and in case Sir George Rooke and Rear-Admiral Hopson remove into their ships, how they should be disposed of, and whether they shall take post at Councils of War as Flag Officers.

(*L. Berkeley and Vice Adm^l. Mitchell*) :—

Sept. 2 (*e*)[1]. Lord Berkeley having on 4 August sent an Orde to Mr. Mitchell (then Vice-Admiral of the Blue), who sent it to us, (a copy whereof we give you herewith), we, looking on it as an indignity to our Commission, thereupon gave the Orders yours mentions, not thinking it practicable to have two Admirals in Chief in one Fleet, or that the Blue Squadron ought to be a separate command from us.

(*Account of Appointments*) :—

Sept. 2 (*e*)[1]. Enclosed you have an account of wnat Commission and Warrant Officers have been appointed by us, with the dates of their Commissions and Warrants.

(*Capt. Stuart*) :—

July 27 (*d*).—*Admiralty Orders.*—To send Capt. Stuart of the *Flame* fireship to town to receive a Commission for another ship, and to appoint another Commander in his place.

Admirals to Admiralty.

Aug. 17 (*e*)[1].—Torbay.—Your Order concerning Captain Steward received (at Dartmouth by the *Rupert Prize*, from Plymouth) on our way to Torbay. We have directed him to attend you accordingly.

(*Lieut. Smith*) :—

Sept. 9 (*e*)[1]. This day we received your Order of 7 Sept. for Mr. Smith, first lieutenant of the *Sovereign*, to attend your Board for preferment, which we have accordingly given orders for.

X. Sick Seamen; Clothing; Hospital Ships.

(*Want of provision*) :—

May 18 (*e*)[1].—St. Helens.—Mr. Bellamy, a Chirurgeon appointed to look after the sick people at this place, acquaints us that the inhabitants refuse to receive such seamen as through sickness, are fit to be put on shore, by reason of their being very much in arrears. We judged it fit to acquaint you with it, not doubting but you will give such directions as this great inconvenience to their Majesties' service may be removed.

June 25 (*e*)[1].—Torbay.—In the Fleet there is a great want of necessaries for the sick, the 3rd rates that lay at Portsmouth and sailed first from the Nore, having expended their proportions. It is very difficult to get quarters for the sick in these parts, the poor people mightily complaining for want of their arrears.

(*Slop Clothes*) :—

Aug. 20 (*e*)[1].—Torbay.—There being a present want of slop clothes for the Fleet, and more especially for such ships as shall be out in the winter, we desire you will give such orders as are necessary therein.

Aug. 27 (*e*)[1]. We desire you will give timely orders about the want of slop clothes, as stated in our last.

(*Hospital Ships*) :—

June 22 (*e*)[1]. We have ordered . . . . the hospital ships, which sailed in company with her [the *Winchester*] to deliver the sick men to the officer appointed to receive them.

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Aug. 25 (*e*)[1]. The *Concord*, hospital ship, at Plymouth, may be discharged, her Commander being dead. She is of no service to the Fleet, and did not sail with us when we went last from Torbay.

Aug. 29 (*d*).—*Admiralty Orders.*—To order the *Concord* up the Thames to Deptford, in company of such ships of the Fleet as shall be first ordered to the Downs or the Buoy of the Nore.

Admirals to Admiralty.

Sept. 2 (*e*)[1].—St. Helens.—We mistook the name of the ship, that remained in Plymouth, &c., as stated, which, it seems, was the *Society*, and her Captain is not dead (as we had information from Capt. Every), she and the other hospital ships being come to the Fleet since our coming here. We shall, therefore, suspend the execution of your Order, till we know your further pleasure.

Sept. 14 (*e*)[1]. In answer to your Letter of the 8th inst., you may observe that the great ships, according to your Order, being speedily designed into harbour, and the rest of the Fleet's near ports, we do not see any occasion for hospital ships; but if there be any service intended, that we are strangers to, you are best able to judge whether they are necessary. The reason of the *Society* hospital ship's not sailing with the Fleet, at their last going to sea, was her being sent into Plymouth with sick men, and wanting opportunity of convoy to join the Fleet before they sailed, and therefore she came under convoy of the *Dreadnought*, with the Victuallers, which missed the Fleet till our coming last into Torbay.

Sept. 15 (*d*).—*Admiralty Orders.*—Pursuant to Queen's pleasure signified by Sir J. Trenchard, they are to cause one of the hospital ships of the Fleet, which is fittest for keeping the sea this winter, to remain at Spithead till further order, and to be supplied with as many men, out of the ships ordered from the Fleet, as will complete the number allowed her, which men will be paid their wages due to 31 March last, before she sails from Spithead. Also, to order the other hospital ships to come up the Thames as far as Longreach.

Sept. 19 (*e*)[1].—*Admirals to Admiralty.*—We have pitched upon the *Concord* to stay with the ships ordered to continue at Spithead, and the other three are ordered to sail to Longreach, with the ships that go about.

XI.—Execution of Order of 19 May 1693.

May 19 (*d*).—*Admiralty Orders.*— . . . And you are to order Sir George Rooke after your parting with them to steer such course for their passage to Cadiz as shall be thought most safe by a Council of War with relation as well to the Brest fleet, if gone out to sea, as to the Toulon squadron. You are to send a frigate before you to Plymouth to give notice to the *Foresight* and *Archangel*, with the merchant ships under their convoy bound to Virginia, and also to the merchant ships there bound to Bilboa, to be ready to join when you come off that place. And you are to join with them and keep them company as far as you shall judge fitting, and then send away the Virginia ships with their convoy and order one 4th and one 5th rate of the Fleet under your command to proceed with the ships bound to Bilboa and convoy them in safety to that place, and then return to the Fleet.

May 22 (*e*)[1].—*Admirals to Admiralty.*—When we received your Order of the 19th, Sir George Rooke was on board, whom we desired to give us an account what readiness his Squadron was in to proceed

1693. — No. 765. on his voyage. Accordingly, this morning he gave us an account he should be ready to sail on Tuesday night [23 May].

July 11 (*d*).—*Admiralty Orders.*—To state what they did in pursuance of the directions in the Order of 19 May, directing them "to order Sir G. Rooke, after their parting with him, to steer such course for his passage to Cadiz as should be thought most safe by a Council of War, with relation as well to the Brest fleet, if gone to sea, as to the Toulon squadron."

July 14 (*e*)[1].—*Admirals to Admiralty.*—In answer to your Order of 19 May and pursuant to your Order of 11th inst., we here enclosed send you the opinion of the Council of War, which was the same before as now.

July 18 (*d*).—*Admiralty Orders.*—It appearing by your answer to our Order that you have mistaken what was intended by the same, you are required to let us know whether or no you called a Council of War at the parting with the Straits Squadron, pursuant to our Orders of 19 May, and, if you did what were the Results of the said Council of War, and what directions, you thereupon gave to Sir George Rooke for his proceedings.

Admirals to Admiralty.

Aug. 17 (*e*)[1]. As to your Order of 18 July . . . the Results of the three Councils of War, held on board us 22 May, 4 June and 14 July (copies of which are enclosed) are full answer; the first of them giving the signal for parting, the second being the Council of War at parting, and the third as particular answer to yours of the 11th July, wherein it is expressed that it was "impracticable and unreasonable" to give Sir G. Rooke orders what course he should steer, unless we had known how the winds would have been, and had certain intelligence where the French Fleet was; so that, upon the whole matter, we think we have made no mistake in the execution of your orders.

Sept. 2 (*e*)[1]. We acknowledge the receipt of your letter of 30 August. . . . We hoped the Results of the Councils of War of 22 May, 4 June and 14 July (of which we gave you duplicates in ours of 17 August) would have satisfied all your enquiries concerning what was resolved and acted for the security and proceeding of the Mediterranean Squadron under the command of Sir G. Rooke, but the beginning of the letter seeming to intimate that you would know, whether your Order of 19 May was considered at a Council of War, we are obliged to put you in mind, that the first thing mentioned in that Result (which we desire you will be referred to in that matter) was the consideration of that Order, which being an answer to most of that paragraph, for your further satisfaction we here enclose you a copy of the Queen's Order of 28 June and Sir John Trenchard's letter therewith, upon which it was resolved at the Council of War the 1st of July (a copy whereof we here enclose you) that her Majesty's Orders to Sir G. Rooke were so full, that there was no occasion for giving further advice.

Sept. 8 (*d*).—*Admiralty Orders.*—Whereas, by our letter of the 30th of the last month, you were directed to send an account whether our Orders of the 19th of May were considered at a Council of War before you sailed from St. Helens, and that if the same were done and our said Orders did then appear impracticable and unreasonable, why you did not represent the same to us before you parted from the said place, and that if a Council of War was not then called to consider thereof, you should let us know at what

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time, before your parting with Sir George Rooke, the same was done, and what was thereupon resolved. And whereas, what you have hitherto written to us on that subject is not satisfactory to us. And it being necessary for their Majesties' service and the satisfaction of the nation, that we should be fully informed of all the proceedings in relation to the Straits Fleet, you are therefore hereby required and directed forthwith to let us know, whether our aforesaid Orders of the 19th May were considered at a Council of War, before you sailed from St. Helens with their Majesties' Fleet under your command and the Straits Squadron, and if they were so considered and found to be unreasonable and impracticable, to send us a perfect copy of the resolutions taken by the said Council of War, as also your reasons why you did not represent the same to us, before you sailed from the aforesaid place. But if a Council of War was not then called to consider of our said Orders, you are to let us know at what time, before you parted with the Straits Squadron, the same was done, and what was thereupon resolved, nothing having hitherto been laid before us to justify the Resolutions of the Council of War held the 14th of July, wherein it is said, that the Council of War had formerly been of the same opinion that our before-mentioned Orders of the 19th of May were unreasonable and impracticable. You are also hereby required and directed, forthwith to let us know, whether, before you parted with the Straits Squadron, you did inform yourselves whether the French Fleet were gone out from Brest, and, if not, to give us your reasons for not doing it. And you are likewise to let us know, why you parted with the said Squadron before they were out of danger of the Brest fleet in these parts. To all which questions, you are hereby directed and required to give us distinct and positive answers.

Admirals to Admiralty.

Sept. 14 (*e*)[1]. In our next we shall endeavour to give you the satisfaction you require on the several questions about the Mediterranean Fleet, mentioned in your Order of the 8th inst.

Sept. 16. (*e*)[1]. We enclose copy of the Result of the Council of War held on board us this day, in return to your Order of the 8th inst., and we doubt not but it will answer the intent of the said Order, otherwise we shall endeavour it when we come to town, which we again desire we may have leave to do.

Sept. 18 (*e*)[1]. In our letter of the 16th inst. we sent you the Result of the Council of War, held on board us that day, which we called upon your Order of the 8th, to the intent your enquiries therein might be answered, and did then conclude we need not make any farther reply to the said Order. But, considering since that, for their Majesties' service and the satisfaction of the nation, you require distinct and positive answers to several Questions, we have drawn a State of them from the said Orders, which, with our Answers, we lay before you in the following method :—

Question :—Whether your Order of the 19th of May was fully considered at a Council of War held the 22nd of that month, before the Fleet sailed from St. Helens, and, if it was considered, and appeared impracticable and unreasonable, why it was not represented to your Board before the Fleet sailed from St. Helens ?

Answer :—Your Order of the 19th of May was fully considered at a Council of War, held the 22nd of that month, where the giving Sir George Rooke orders what course he should steer was debated, and it was then concluded (Sir George Rooke present) unreasonable and impracticable to give him any directions therein. However, in respect to

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you, we did not think fit to represent it so to you, but proceed to put your Order in execution for sailing [with] their Majesties' Fleet the first opportunity of wind and weather, together with the Squadron of their Majesties' ships under the command of Sir George Rooke, and the merchant ships, under his convoy, bound to the Mediterranean, which your aforesaid Order of the 19th of May positively commanded should be done; although in a Council of War of the 15th of May, which was delivered to the Lords of the Council which came down to the Fleet (copies whereof have been sent to you), it was advised that, if there were no certain intelligence of the Toulon squadron being come out of the Straits, or where they were, before the Fleet's sailing from St. Helens, that then the Turkey fleet should remain there with the convoy the said Council of War proposed, till further intelligence were had of the Toulon squadron.

Question:—What time, before parting with Sir George Rooke, a Council of War was called, and what was thereupon resolved?

Answer:—A Council of War was held the 4th of June, where it was resolved to sail with the Mediterranean Fleet 20 leagues farther than was concluded on at the Council of War of the 22nd May. The 6th of June the Grand Fleet parted with the Mediterranean Fleet, considering it very dangerous and unsafe to go farther from the coast of England, and leave it to the insults of the enemy, of whom there was then no certain intelligence.

Question:—Why nothing had been laid before your Lordships to justify the Resolution of the Council of War held the 14th of July, wherein it is expressed that the before-mentioned Order of the 15th of May was unreasonable and impracticable?

Answer:—Though our reply to the first Question does amount almost to an answer of this, we think ourselves obliged to observe to you, that the reason of the Council of War of the 14th of July last saying, that your Order of the 19th of May, to give Sir George Rooke directions what course he should steer in his passage to Cadiz, was altogether impracticable as well as unreasonable, was grounded upon your Order of the 11th of July, which required a particular account of what was done in pursuance of your aforesaid Order of the 19th of May, and in good manners we did then excuse telling you plainly the Council of War's sense thereon, as we would gladly have done at this time, but your Order of the 11th of July exacted it from us.

Question:—Whether, before the parting with the Straits Squadron, we did inform ourselves if the French Fleet were gone out of Brest; and, if we had no such intelligence, to give the reason for not endeavouring it?

Answer:—We know by experience that no certain intelligence can be had from Brest, which is so far within Ushant, with single ships, by reason their Fleet which lies in Brest water, is so far within the land, and their scouts so many, that nothing less than a squadron, able to force their scouts, could obtain such intelligence as might be depended on, which squadron would also run great hazard, unless the Fleet were near to sustain them; and for this reason we proposed the Turkey Fleet should stay at St. Helens, with the convoy proposed at the Council of War of the 15th of May, and Sir George Rooke, with the other men of war of his Squadron, should keep company with the Grand Fleet, as is implied in the Result of the last-mentioned Council of War.

You may further take notice it has been the reason and practice, both of my Lord Torrington and Admiral Russell (whom we reckon of

very competent judges) to gain intelligence from Brest by squadrons, as knowing nothing could be depended upon by other means; and as an instance thereof, you may observe the intelligence we had from the *Germoon Prize* about the middle of May, which was sent us by Commander Greenhill from Plymouth, who we doubt not but sent it you also, proved altogether untrue.

Question:—Why the said Squadron was parted with, before we were out of danger of the Brest fleet?

Answer:—The Mediterranean Squadron, with the convoys, was not parted with till the Fleet had gone with them as far as the Council of War of the 4th of June advised.

As to what relates to the gaining intelligence by scouts, you may observe, that several ships from time to time have been appointed for that service, viz., the *Mary*, *Rupert*, *Deptford*, *James* Galley, *Portsmouth*, *Mountagu*, *Rochester*, *Winchester*, and *Carlisle;* and here enclosed we send you copies of the orders given the said ships, most whereof were line of battle ships; for we wanted ships proper for it, as we signified to you at several times.

XII.—Sir GEORGE ROOKE (after defeat in Lagos Bay).

Admirals to Admiralty and Trenchard.

July 14 (*e*)[1]. Torbay.—Between 11 and 12 this morning, the *Lark* came to us from Sir George Rooke, and his Secretary, Capt. Martin, being on board the same ship, we directed him to make the best of his way for London by land, to whom we refer you for an account from Sir G. Rooke, he not having written to us.

July 15 (*e*)[2]. Same as preceding.

July 15 (*e*)[2]. 40 leagues S.W. from Ushant.—In obedience to Queen's commands, we shall forthwith send a frigate to Kingsale for the *Royal Oak*, *Bredah*, *Monmouth*, *Lion*, *Woolwich*, and *Lumley Castle*, hastening to us in the station we are now, in case they are in a condition, as you mention in yours, and Admiral Almonde will send an order with ours to the same purpose for the *Captain General* and *Gelderlandt*.

Postscript.—After having well considered your letter, we are in doubt whether it was the Queen's pleasure that Sir G. Rooke should come with the ships of his Squadron, and therefore we hope you have let him know the Queen's commands therein. The said letter, which Mr. Bowles brought us, was delivered him by a messenger that came express, who gave it him the 19th, at Dartmouth.

Aug. 18 (*d*). *Admiralty Orders.*—To send 3 men of war to Kinsale, to join those there to bring about the Turkey and other ships to Spithead.

Admirals to Admiralty and Trenchard.

Aug. 15 (*e*)[1]. On the 7th inst. we left the station 40 leagues S.W. of Ushant, and ordered the *Greenwich* for Ireland, to give notice to Sir G. Rooke, or the Commander in Chief of the Mediterranean Squadron, of our being sailed for Torbay. . . . . The *Crown*, which (in pursuance of the Queen's pleasure signified to us in Sir J. Trenchard's Letter of the 16th (*sic.*)), we sent to Kingsale, with an Order to Sir G. Rooke, or the Commander in Chief of the ships of the Mediterranean Squadron, viz., the *Royal Oak*, *Bredah*, *Monmouth*, *Lion*, *Woolwich*, *Lumley Castle*, *Speedwell*, and *Despatch*, to join us, is not yet returned to us.* . . .

* The fact of the *Crown* not having returned is also mentioned in the Admiral's letter to Sir John Trenchard of the same date.

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Postscript.—The *Adventure* and *Saudadoes* [See PARTICULAR SERVICES] are just returned, and acquaint us that on Friday last [11 Aug.] they met Sir G. Rooke and the Victuallers, &c. . . . . in latitude 47. . . . . We have ordered the said two ships to cruise for 10 days between the Lizard and Ushant to give notice to Sir G. Rooke, &c. that we are sailing to Torbay.

Aug. 15 (*e*)[2]. At our leaving the Station (40 leagues S.W. from Ushant) on the 7th present, we ordered the *Greenwich* for Ireland, to give notice to Sir George Rooke, or the Commander in Chief of the Mediterranean Squadron, and left the *Rochester* and *Swift Prize* with orders to cruise for 10 days (from the date thereof) on that station, for advertising all ships, that were intended to join the Fleet, of our being designed for Torbay.

Aug. 17 (*e*)[1]. Yesterday in the afternoon Sir G. Rooke with the *Royal Oak*, *Bredah*, *Monmouth*, *Lion*, *Woolwich*, *Lumley Castle*, *Speedwell* fireship, and *Despatch* brigantine, and the Victuallers with the *Dreadnought*, came in here.

Aug. 17 (*e*)[2]. Same as preceding.

Aug. 22 (*e*)[1]. We have appointed the *Kent*, *York*, and *Sheerness* (the latter of which came to the Fleet here three days ago), to go to Kinsale to join the men of war there, and bring about the Turkey and other merchant ships from thence to Spithead, where they are to await further orders.

Aug. 25 (*e.*)[1]. On the 23rd inst., the *Greenwich*, which we sent to Ireland with orders for Sir G. Rooke, returned to the Fleet, having in her passage thither taken a small French privateer of 8 guns, which she left in Ireland. . . .

. . . Since our last, which advised you about the three ships for Kinsale, we have appointed the *Monmouth*, in the room of the *Kent*, finding her mainmast, upon a survey, to be very defective, and that she cannot well keep the sea till it be shifted.

Sept. 19 (*e.*)[1]. St. Helens.—The *Monk* is just now come in from Ireland, and the merchant ships under convoy of the *Monmouth* appear in the offing.

XIII.—MISCELLANEOUS.

1. *Admirals (Personal).*
2. *Correspondence; Complaints; Councils of War.*
3. *Prizes.*
4. *Dutch Squadron.*
5. *Intelligence of French.*
6. *Capt. Moody.*
7. *Sweden and Denmark.*
8. *Jacobites in the Fleet.*
9. *Well-boats.*
10. Ship *Henry* alias *Essex.*
11. *Mons. Gode.*
12. *Papers from Capt. Boyce.*
13. *Letter to Capt. Fletcher.*
14. *Peter Fountaine.*
15. *Postmaster, Dartmouth.*

1. *Admirals (Personal)* :—

Jan. 26 (*e*)[1]. *Admirals to Admiralty.*—Have chosen Capt. Nevill as our first Captain, and the *Britannia* as our flag-ship. Intend to go to Chatham to-morrow.

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March 12 (*d*). *Admiralty Order.*—London.—To repair to town forthwith and attend the King at Kensington to-morrow at 6 p.m.

(*Leave of absence*) :—

Admirals to Admiralty and Trenchard.

Sept. 9 (*e*)[1]. So soon as the great ships shall be disposed of, as you shall think fit, we desire your leave to come up to London.

Sept. 14 (*e*)[1]. You not having been pleased to take any notice to us of our desires in our letter of the 9th inst. for leave to come to town, we repeat our desires therein, and pray an answer by express.

Sept. 14 (*e*)[2]. On the 9th we desired the Admiralty's leave for coming to town, but, though they have ordered most of the great ships should come about, we are not favoured with their permission to leave the Fleet; wherefore, by this occasion, we have repeated our desires to them, and pray you will lay the same before the Queen, and signify her Majesty's pleasure to us.

Sept. 19 (*e*)[1]. We have received your letter of the 14th inst., advising us that you have moved the Queen for leave for our coming to London, but that her Majesty had not then signified her pleasure therein. We desire you will forward that matter, Admiral Almonde having received orders to send away the Dutch ships mentioned in the enclosed list, by which also you may observe what Dutch Flags are to continue here, and he himself is ordered by the King to come to London.

Sept. 20 (*e*)[1]. We take notice by your letter that notwithstanding our oft-repeated desires for leave to come to town, we are not favoured with it, and therefore we request you will move the Queen in it again. . . . . .

The *Britannia* being directed about with the rest [*i.e.*, of the ships at Spithead] we, (being three) cannot have accommodation together in any of the ships here, nor can we think it is your intention we should, and therefore we resolve to go on shore to Portsmouth to-morrow, hoping the great ships will have fair winds and weather to pursue their Orders.

You may observe there remains nothing for us to do in execution of your Orders, but what we may direct from the shore, and Sir George Rooke being here with an Admiral's Flag, what further Orders you shall give concerning the ships that are to remain at Spithead, we presume may be performed by him or any other Flag when we are gone.

Sept. 23 (*e*)[1]. On the 21st inst., the ships ordered about under Rear-Admiral Mitchell having sailed, we went on board the *St. Andrew*, where we put up our Flag, and are now at Gosport, attending impatiently (for we see no service for us here) for leave to come to town.

Sept. 25 (*e*)[1]. We are not a little surprised to understand that our leave of coming to town is delayed, and we suppose you are not insensible how prejudicial our stay is to us, as well in respect to our own private affairs as the calumnies which we hear from all hands are daily heaped on us, and therefore we again desire you will be instant with the Queen in this matter, and lay before her Majesty the impracticableness of keeping the Admirals' Flag here, when the bulk of the Fleet is dispersed, and the great ships ordered into harbour, and nothing offers material to the Service, but what may be directed by an inferior Flag.

Sept. 25 (*e*)[2]. We have received yours of the 23rd inst., and thankfully acknowledge your favour in laying our desires before the Queen

1693. — No. 765. for leave to come to town, which you acquaint us is not yet granted, her Majesty thinking it convenient that our stay here should be continued a few days longer, till the squadron of 25 ships, ordered to be fitted out,* be in greater forwardness, whereto we conceive we can contribute no more than any inferior Flag. Therefore, we most earnestly renew our desires to you for her Majesty's leave, presuming you are not unacquainted that most of the great ships, English and Dutch, are ordered into harbour; after which, and the breaking up of the Fleet, it has not been practicable to keep the chief Flag here. Notwithstanding which, we should not be pressing on the subject of leave, or be uneasy under the want of it, did we see anything for their Majesties' service, that made our stay necessary; but, on the contrary, many things concerning ourselves in particular (as well in relation to our own private affairs, as the clearing and justifying ourselves from the very many aspersions which, our friends acquaint us, are heaped daily on us), that makes it of great importance to us to come to town; the want of leave for which has not, nor does not, expose us a little to the censure even of those who have served in this expedition under our command. Therefore, in hopes and full reliance on obtaining, by your intercession, what we have not yet been able to do by our many applications to the Lords of the Admiralty, and praying your speedy answer by express, as this comes to you, we subscribe ourselves, &c.

Sept. 27 (*d*). *Admiralty Orders.* Pursuant to the Queen's pleasure signified to the Board, they are to repair to town. . . . . .

Admirals to Admiralty and Trenchard.

Sept. 27 (*e*)[1]. We observe your often moving the Queen for leave for our coming to town, for which we thank you; we hope her Majesty's pleasure, in return of our desires thereabout, will be speedily despatched to us.

Sept. 28 (*e*)[1]. Your Order of 27 Sept. received by express about 2 o'clock this afternoon.

Sept. 28 (*e*)[2]. We have received yours of the 26th inst., with notice of the Queen's directing the Admiralty to send us leave for coming to London; and accordingly it is come to us this day, and to-morrow we shall set out on our journey; and we are very much obliged to you for laying our desires before the Queen concerning the same.

Sept. 29 (*e*)[2]. (Godliman, at 10 at night).—Your messenger met us about a mile beyond this place (at 9 at night), with yours of this day's date, signifying her Majesty's pleasure we should wait on you, upon our coming to London, which we shall not fail of, having determined to have done so, although we had not received this notice from you.

2. *Correspondence; Complaints of neglect; Councils of War*:—

March 18 (*d*). *Admiralty Orders.*—They are to send frequent accounts of their proceedings, and of the movements of the Fleet, together with any intelligence they shall receive.

Admirals to Admiralty and Trenchard.

May 7 (*e*)[1]. We received yours of the 3rd inst., by the hand of your messenger. We shall call a Council of Flag Officers to-morrow, and lay your letter before them, and transmit to you an account thereof with our next. We have only time to tell you that we are, &c.

May 8 (*e*)[2]. Pursuant to her Majesty's commands, signified to us by your Letter of the 3rd inst., we this day called a Council of War of Flag Officers, the Result whereof we here enclosed send you.

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* *See* PARTICULAR SERVICES (*Secret Expedition*).

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May 14 (*e*)[1]. As to the letter's being opened, it was to our knowledge, having something else to add to it after it was sealed, and the reason it came no sooner to your hands is that Capt. Billop, who was appointed to stay behind us, had not an opportunity to put it on shore, by reason of the extremity of the weather.

May 20 (*e*)[2]. We observe you have not taken any notice of the receipt of our letters, which we desire you will own with your next.

May 22 (*e*)[1]. Have received yours of the 18th.

May 26 (*e*)[1]. We received yours of the 23rd inst., whereto we have nothing more to reply, than what we have already writ to you on that subject.

Admiralty Orders.

May 23 (*d*). Extract from letter of Commissioners of the Admiralty to the Admirals of the Fleet, as follows :—

It being necessary that such Resolutions as have, or shall be from time to time taken at Councils of War, for the proceedings of the Fleet, should be transmitted to this Board, we desire you will send to us, as soon as may be, such Resolutions as have been already taken, and that you will from time to time transmit hither the results of such Councils of War as shall be held for the future, together with such other accounts of your proceedings as may be necessary for our information touching the affairs of the Fleet.

May 30 (*d*). Extract from letter of same to same, as follows :—We think it necessary to put you in mind of what we lately desired of you, namely, that you will send to us, as soon as may be, the Results of such Councils of War as have been already held in the Fleet, as also such Resolutions as shall be for the future taken at Councils of War, you having not mentioned anything in answer to that part of our late letter, and this Board thinking it very necessary that not only such Resolutions, but what other directions you shall from time to time give for the proceeding of the Fleet, should be constantly transmitted to us for our information.

Admirals to Admiralty and Trenchard.

June 1 (*e*)[1]. We acknowledge the receipt of yours of the 29th of May, which we received by the hands of the messenger that came from Sir John Trenchard, not having then time to answer it, being then under sail with the whole Fleet.

June 8 (*e*)[1]. We shall not on our part be wanting in putting in execution your Lordships' commands for their Majesties' service, or what else shall be judged fitting to be undertaken by a Council of War.

June 8 (*e*)[2]. The enclosed is the copy of a letter sent this day to the Admiralty, which we thought fit to transmit to you for your perusal, having nothing more to communicate to you at this time.

Note in margin.—The letter above mentioned is entered amongst the other letters to the Admiralty.*

June 12 (*d*). *Admiralty Orders.*—To transmit forthwith the results of all Councils of War already held, and such Resolutions as shall be taken in future, by the first opportunity after they are taken.

Admirals to Admiralty and Trenchard.

June 16 (*e*)[1]. Yours of the 31st past, with the enclosed copies of a letter from Mr. Ekins of Scilly, came not to our hands till the 8th inst., being brought to us by the *Portsmouth* frigate, duplicates of which we

* For the contents of this letter *see* (*e*)[1], June 8, wherever it occurs

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received yesterday from the *Rochester*, being put on board her yesterday by Capt. Fowkes for quicker despatch. . . . We enclose copy of the Result of the last Council of War, nor have we omitted, upon any occasion, of giving you notice of all things necessary for their Majesties' service.

June 16 (*e*)[2]. Same as preceding, down to "despatch."

June 22 (*e*)[1]. We received this evening at 8 o'clock by the *Diligence* brigantine your Order of 12 June, and letter of the 13th. By the first we cannot choose but be surprised, it being a repetition of our sending you our Resolutions of the Councils of War. We are in doubt you do not receive our letters, having omitted no opportunity of giving you an account of all our proceedings, and desire you will acknowledge the receipt of them.

June 30 (*e*)[1]. We received yours of the 26th inst. by which we understand you have not received the Resolutions of the Councils of War, therefore have enclosed all such as have been taken since our conjunction with the Dutch.

July 9 (*e*)[2]. This day called a Council of the Flag Officers, result whereof we here enclosed send you.

July 23 (*e*)[2]. We have received yours of the 16th, together with the several enclosed, by the hands of Mr. Bowles, who came into the Fleet on the 22nd in the evening by the *Germoon* from Plymouth.

Aug. 2 (*d*). *Admiralty Orders.*—Whereas with our letter to you dated the 20th of the last month, we transmitted the dates of several Orders and letters sent to you from the Board, to which you have not returned us any answer, and directed you to let us know what you had done therein, and particularly upon our Orders of the 23rd of June which directed your causing an exact account of the provision in the Fleet to be taken and transmitted to this Board, signed by yourselves and the Commissioner of the Victualling then with you, as also our letter of the 4th of July, wherein we desired you to acquaint us in what letters you have transmitted the results of Councils of War held in the Fleet, and from whence and how they were sent. You are hereby required and directed forthwith to let us know what you have done in these matters, as also in pursuance of the other Orders and letters, the dates whereof are mentioned in the margin [Dates of Orders, June 23, 27, 29; Dates of letters, May 30, June 15, 29, July 6, 6, 11, 13], to which you have not yet returned us any answer. And that we may be at the greater certainty whether all the letters you have written to this Board have come safe to our hands, you are to give us an account as soon as possibly may be of the dates of all such letters as you have written to us since the time of your coming aboard the Fleet.

Admirals to Admiralty and Trenchard.

Aug. 15 (*e*)[1]. *Britannia.*—Since our last of the 23rd of July, which went by the *Germoon Prize* for Plymouth (of whose arrival having no notice occasions our sending you a copy of the said letter, and duplicate of the papers enclosed). . . . .

Aug. 15 (*e*)[2]. To same effect as preceding. One of the papers re[ce]ated was the Result of a Council of War.

[Aug.] 17 (*e*)[2]. By our letter of the 15th inst. (off the Lizard). [Ply]mouth to be forwarded you by express, we gave answer to [the] 22nd of July, and enclosed therein the Results of the [Co]r since our last to you, and also such other papers [as] ary for your observation.

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August 17 (*e*)[1]. We wrote you on the 15th instant (off the Lizard) by a frigate sent into Plymouth, to deliver our letter to the Commissioner there, with directions to forward them to you by express, wherein we gave you an account of what offered since our last putting to sea from Torbay, and enclosed the results of several Councils of War, and also such other papers as was necessary to lay before you. . . . received, by the *Rupert Prize* from Plymouth your Orders of 27 and 28 (two) July. . . . Having at the foot hereof given you the dates of such other Orders and letters as are lately come to us from you, together with the conveyances by which we received them, we proceed to make the following observations to you in pursuance thereof. . . . . Concerning your Order of the 2nd of August, repeating what you required of us by your letter of the 20th of June, you may observe that the said letter, though of an older date, came to our hands since our last arrival here, as will appear by the dates (at the bottom hereof) of your letters and Orders lately come to us; and by the next occasion you shall have the dates of all our letters transmitted to you. . . . Sir George Rooke, as we have already acquainted you, having joined us, your letter of the 9th of August requires no further answer than owning its receipt. . . . Here follows a Memorial of the dates of the several Orders and letters received from you, which we have herein given answers to, and also of the times and conveyances by which they were brought to us:—

Dates from the Admiralty Office.

Orders.

July 27	Received the 16th of August off Dartmouth by the *Rupert Prize* from Plymouth.
„ 28	
„ 28	
„ 18	Received at Torbay, 16 August by the *Dreadnought*, Capt. Coale, about 6 in the evening.
„ 18	
Aug. 2	Received at Torbay by express from Plymouth, which came to the Fleet the 16th August, between 8 and 9 at night.

Letters.

July 18	Received at Torbay the 16th August by the *Dreadnought*, Capt. Coale, about 6 in the evening.
„ 20	
Aug. 2	Received at Torbay by express from Plymouth, which came to the Fleet the 16th August, between 8 and 9 at night.
„ 9	
„ 9	

Aug. 19 (*e*)[1]. Since our last, of the 17th instant by express (giving answer to all such letters and Orders as have lately come to our hands from you), we have received none from you.

Aug. 19 (*e*)[2]. On the 17th inst., by express, we owned the receipt of yours of the 1st, 9th, and 11th of August, and gave such answer thereto as we were able to do at that time.

Aug. 22 (*e*)[1].—On the 20th inst., in the evening, by express, we received your Order of the 18th.

Aug. 22 (*e*)[2].—We have received yours of the 18th by express, owning the receipt of our duplicate of the 23rd of July and original of the 15th inst., with the Results of two Councils of War of the 6th and 15th, and several other papers, which you had laid before the Queen, and that thereupon her Majesty had directed the Lords Commissioners of the Admiralty to send us several Orders, which also accompanied your said letter, and, by the enclosed copy of ours to them, of this day's date, (to which we desire you will be referred) you may observe what directions we have given in pursuance thereof, and what we judge necessary at this time to be taken into consideration concerning the Fleet.

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Aug. 23 (*e*)[2]. *Britannia*, in Torbay, at 8 at night.—About this time, by express, last night we acquainted you what was necessary from the Fleet.

Sept. 2 (*e*)[1]. *Britannia*, St. Helens Road.—By our letter of the 29th of August we advised you of the Fleet's arrival here, since which we have received several Orders from you dated the 29th of August and one of the 30th, Abstract of which Orders being inserted at the bottom hereof, we proceed to acquaint you what directions we have given therein. . . . . Enclosed we send you an Abstract of the dates of our letters to you since the time of our being with the Fleet, and had we judged the importance of it to the Service, it should not have been omitted so long. . . . .

Abstract of several Orders received from the Right Hon. the Commissioners of the Admiralty, which this Letter refers to:—

Aug. 29. As to French linen said to be in the Fleet, and the ship sunk at sea that 'twas taken in; with complaint also against Capt. Loads, of the *Saudadoes*.

Aug. 29. As to Survey of Provisions.

Aug. 29. As to Account of Provisions received since fitting out.

Aug. 29. Order, accompanying a Copy of a Letter from the Commissioners for stating the Accounts of the Nation, to have Accounts transmitted of the 18th Sept. of the Fleet's victualling, &c.

Aug. 29. As to *Concord* hospital ship.

Aug. 29. Order to administer the Oaths and Test to Rear-*Admiral* Nevill, on his Commission of being Commander-in-Chief of the ships designed for the Baltic.

Aug. 29. Letter with Rear-Admiral Nevill's Commission and the last-mentioned Order.

Aug. 29. To send Rear-Admiral Nevill to Texel.

Aug. 30. As to number of last year's men on board.

Aug. 30. Letter treating on several subjects, and accompanying copy of letter of the 25th August from the Navy Board, intimating what repairs might have been made to the Fleet in Torbay.

Sept. 14 (*e*)[1]. Since our last of the 9th inst., we have received your letter of the 8th by post, and several Orders dated the 8th, 11th and 12th inst., the numbers of which, and times of their receipt you have in the margin.* . . . . As to what you write concerning the mistakes in the dates of some of our letters, we desire you will be referred to the account Mr. Bowles will give Mr. Sotherne thereof.

Sept. 19 (*e*)[1]. Your letters of the 14th and 16th inst. are come to our hands, the former accompanying the Proclamation, dated the 23rd of February last.

Sept. 27 (*e*)[1]. This sent by a gentleman that was going post to London and designed going away between 12 and 1 o'clock noon.

3. *Prizes:—*

Admiralty Orders.

March 18 (*d*). To give strict orders that, on seizing any prize, the hatches be immediately spiked, and all the goods and tackle preserved from spoil or embezzlement, and the ship sent to the next

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* A marginal note here adds as follows:—

No. 1,	Sept. 8.	Received Sept.	10.
„ 2,	„ 8.	„ „	11.
„ 3,	„ 11.	„ „	13.
„ 4,	„ 12.	„ „	14.

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convenient port in England and delivered to the Agent of the Commissioners for Prizes, and all papers sealed up and sent to the Judge of the Admiralty Court at Doctors Commons.

April 7 (*d*). To give strict charge to all Commanders carefully to observe the provisions as to prizes, and the shares, proportions and rewards of and for the same, in the Act of last Session for continuing the Acts for prohibiting all trade and commerce with France, and for the encouragement of privateers, copies of which Act are enclosed.

Aug. 29 (*d*). To make enquiry as to an Information (copy enclosed) sent to the Board by the Customs Commissioners from their officers at Dartmouth, of a quantity of linen on board some of the ships in the Fleet, which was taken out of a prize ship afterwards sunk, and to cause such linen, and all goods similarly taken, to be forthwith landed and handed over to the proper officers, as directed by the late Act.

Admirals to Admiralty and Trenchard.

Sept. 2 (*e*)[1]. We resolved this day to have called all the Commanders of the Fleet on board, in order to make strict enquiry about the linen. It having blown hard all day, we could not do it, but will take the first fair opportunity for it, and if any such linen be found in the Fleet, will have it landed, &c., as ordered, and send you an account.

Sept. 4 (*e*)[1]. This day we called the Flag Officers aboard, and all the Captains of the Fleet, and finding the Captains in general deny they have any such goods, we gave them orders that, in case any Officers of the Custom House or Prize Office, should come aboard them to search, they should permit them to do so, and assist them. We have also told Mr. Cowes, the Prize Officer, and Mr. Cole, the Customs Officer, at Portsmouth, that if they can think of any proper way to make any discovery, they shall have our directions and concurrence.

4. *Dutch Squadron:—*

May 8 (*e*)[1]. We send you the Dutch line of battle, which we find is but intended 29, whereof 16 are arrived in these parts, of which we send you a list, and 5 of them are cruising.

May 8 (*e*)[2]. The Dutch have here but 16 ships of their line of battle, nor do they positively tell us when the rest may come.

May 11 (*e*)[2]. We received yours of the 10th inst. by a messenger, intimating that 10 of the Dutch ships of the line of battle are seen on the back of the Goodwin, but none are arrived here [St. Helens]. . . . . P.S. There are several ships appear in the offing, and we hope they may be some of those you mention to us.

May 14 (*e*)[1]. The Vice and Rear-Admiral of Zeeland joined us with 5 men of war about 8 at night.

Aug. 22 (*d*).—*Admiralty Orders.*—To desire Admiral Almonde to have a survey taken of the Dutch Squadron, and send the same to the Board.

Admirals to Admiralty and Trenchard.

Aug. 25 (*e*)[1]. We sent to Admiral Almonde, as you direct, to cause a survey to be made of the Dutch Squadron under his command, and we enclose a translation of the return.

Sept. 20 (*e*)[1]. The Dutch are separated, by their great ships (mentioned in the list sent you last night) being sailed away this day, and the rest to Spithead.

5. *Intelligence as to French Fleet:—*

May 14 (*e*)[1]. This day the Vice and Rear-Admiral of Zeeland came on board us, and told us that two days past, they met a Dutch ship, which came in 24 days from Cadiz, where they had the news of a

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Toulon squadron being at Malaga and bombarding that place. He likewise added that the line of battle of the said squadron was composed of 26 men of war. This news they had from an honest man, as they say. The said Vice and Rear-Admiral joined us with 5 men of war about 8 at night.

June 1 (*e*)[1]. On the 31st of May there passed by us 30 odd sail of Swedes and Danes, under the convoy of a Swede man of war of 44 guns, bound home from St. Tubes. They had lain 3 or 4 days in sight of Scilly, with a contrary wind, and it is not improbable but they are the ships said to be seen off of that place.

June 1 (*e*)[2]. On the 31st of May there passed by us near Dartmouth 30 odd sail, &c. (as above).

June 8 (*e*)[1]. We have not as yet been able to gain any intelligence of the French Fleet, but shall use all possible endeavours to that purpose, and doubt not, but if any intelligence occurs to you of their proceedings, or where they are, that you will let us know it, by which means we may be the better enabled to do their Majesties' service.

6. *Capt. Moody:*—

May 22 (*e*)[1]. We are very much surprised at what you write us concerning Capt. Moody, of the *Wolf* hired ship, telling us that at our desire, he has been kept from going a foreign voyage in order to his serving in the Fleet. We do not remember anything of this matter.

7. *Sweden and Denmark:*—

May 29 (*d*).—*Admiralty Orders.*—To order all Commanders to observe and execute the Regulations and Instructions (*printed copies* whereof are enclosed) prepared by the Board under warrant of the Queen of 2 May, with the view of preventing all cause of just complaint by any of their Majesties' friends or allies, that their ships are stopt or detained here without sufficient cause, as well as the frequent abuses of colouring, concealing and promoting the French trade, to the great damage of all the allies and the common cause of Christendom.

June 25 (*e*)[1].—*Admirals to Admiralty.*—We have issued our orders to the Captains in the Fleet, and desire you will send us the Articles of Agreement between England and Sweden and Denmark, for information of the Commanders, and producing them upon any occasion that may offer.

Admiralty Orders.

June 29 (*d*). The Queen having made some alterations in the Regulations and Instructions already issued, printed copies whereof, as altered (with the Articles of the Treaties with Sweden and Denmark, mentioned therein) are enclosed, they are to cause the same to be observed and distributed to the Commanders.

July 1 (*d*). Sir J. Trenchard having sent to the Board extracts of two letters from Copenhagen and Elsinore, stating that several Danish and Swedish ships are bound to France with contraband goods, they are to cause the enclosed copies to be communicated to the Commanders of the cruising ships in the Fleet, with directions to look out for and seize the ships, if met with.

Admirals to Admiralty and Trenchard.

July 7 (*e*)[1]. Have ordered the *York* and *Crown*, together with a Dutch man of war, to cruise mid-channel over, to endeavour to intercept the ships mentioned in the Extracts.

July 4 (*e*)[2]. (Torbay). This day came on board us Baron Frederick Evart Tambo, Vice-Admiral of the Swedish Fleet, and 5 Swedish Captains, who brought us a recommendatory letter in their behalf from

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my Lord Dursley,* intimating their desire to serve as volunteers in the Fleet. We have at present taken care to accommodate them, and when we shall have their Majesties' approbation for their continuance in the Fleet, shall allow them such conveniences as we possibly can.

July 7 (*d*). *Admiralty Orders.*—Pursuant to Queen's pleasure signified by Sir J. Trenchard, they are to cause the Baron Frederick Evart, and the 5 Swedish Captains, to be accommodated in the best manner possible, during their continuance in the Fleet.

Admirals to Admiralty and Trenchard.

July 9 (*e*)[1]. Your Order of 7 July received, for accommodating Baron Frederick Evart Tanbo, &c.

July 9 (*e*)[2]. We have received Orders from the Admiralty for accommodating the Swedish officers, which we have put in execution.

July 15 (*d*). *Admiralty Orders.*—Pursuant to Queen's pleasure signified by Sir J. Trenchard, they are to receive into the Fleet Baron Benyt Sparr, a Swede, and have accommodation provided for him on board one of the ships during the time he shall serve as a volunteer.

Admirals to Admiralty and Trenchard.

Aug. 15 (*e*)[1]. Received by the *Swift Prize*, which arrived with the Fleet on 4 Aug. from Plymouth, your Order of 15 July for Baron Bengal (*sic*), a Swede, being entertained in the Fleet as a volunteer, and in pursuance thereof, we have ordered him, with a servant, aboard Rear-Admiral Nevill.

8. *Jacobites in the Fleet:*—

June 25 (*e*)[1]. We find that many of King James' late Declarations have been sent to the Fleet under covert, and directed to several officers, more particularly to the boatswains. But we find a general abhorrence of these evil practices, they having immediately delivered such papers to their Captains, which they have brought to us.

June 25 (*e*)[2]. Same as preceding.

July 9 (*e*)[1]. Lord Nottingham having signified to us that Mr. Anselme is dismissed his employment by a Committee of Council, we thought fit to let you know we have accepted Mr. Bowles for that employment, and have accordingly written to him to repair to the Fleet with all expedition.

July 23 (*e*)[2]. Mr. Bowles came into the Fleet on the 22d in the evening by the *Germoon* from Plymouth.

9. *Well-boats:*—

Sept. 11 (*d*). *Admiralty Orders.*—To appoint an able seaman to take charge of the well-boats at Portsmouth and the stores to be put on board them.

Admirals to Admiralty and Trenchard.

Sept. 14 (*e*)[1]. We have written to the Commissioners Dummer and Timewell at Portsmouth, to know how many well-boats are ordered to be fitted out, and when they will be ready, so that we may order the men accordingly. *Postscript.* Since closing this letter, we have received notice from the Surveyor and Commissioner of the Navy at Portsmouth, that there are 38 well-boats refitting there, which by next Saturday morning will be all in readiness to receive the persons we shall appoint in pursuance of your Order.

10. Ship *Henry* alias *Essex*:—

April 10 (*e*)[1]. We received your Order of the 8th inst., for the stopping of the Ship *Henry* alias *Essex*, Capt. Hudson, commander, and have given orders for that purpose.

* Ambassador at the Hague, *Luttrell*, 29 Aug. 1693.

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11. *Mons. Gode :—*

May 20 (e)[2]. Her Majesty's commands of the 11th inst. shall likewise be observed, and such proposals as shall be offered to us from Mons. Gode, for the good of the Service, shall meet with a kind reception and be thoroughly considered by us.

12. *Papers from Capt. Boyce :—*

May 20 (e)[2]. In the meantime we send you the enclosed papers, which were sent us by Capt. Boyce, who had them of a hoy, and gave them to our Captain, who delivered them to us.

13. *Letter to Capt. Fletcher :—*

July 23 (e)[2]. *Postscript.*—We enclose you a letter, that came to us yesterday, under a cover to Capt. Fletcher, directed in the same order we send it you.

14. *Peter Fountaine :—*

Aug. 23 (e)[2]. This moment we received yours of the 21st of August, directing that Mr. Peter Fountaine, a midshipman extra aboard the *Royal Katherine* should immediately come to London with the messenger that brought your letter, to speak with you, which he has our order to do accordingly.

15. *Postmaster, Dartmouth :—*

Aug. 25 (e)[2]. *Britannia*, in Torbay.—Having none of yours to answer, these are only to hand to you the enclosed letter, which we lately received from the Postmaster at Dartmouth, desiring *you* will give such directions as you judge proper for the Service.

(f). 5 Jan. 1693–4. Papers received from the Council Office this day, being

(f)[1]. 5 Jan. 1693–4. List of Papers relating to the Petition of the Turkey Company, *numbered* from 1 to 53, and *endorsed* as received, 5 Jan. 1693–4. from Mr. Colin [Richard Coleing was a Clerk of the Council*]. The List is as follows :—

Bundle I.

No. 1. Petition of the Turkey Company, with several Papers annexed.
„ 2. Order of the 10th of August referring the Petition of the Turkey Company to the Committee.
„ 3. Mr. Rutter's Information, received 17 August.
„ 4. A Letter from Brest, dated May 18, received from Sir John Houblon 24 August.
„ 5. Mr. Bedington's Information, received 16 August.
„ 6. Mr. Martin's Narrative, received from L. Falkland 31 August.
„ 7. The Chevalier de Lucenay's Examination, 31 August.
„ 8. The Chevalier de Sautieux's Examination, ditto.
„ 9. The Chevalier de Lucenay's Examination, received from Mr. Secretary Trenchard 31 August.
„ 10. The Chevalier de Sautieux's Examination, 31 August.
„ 11. Proceedings of the Commissioners of the Admiralty, received from L. Falkland, sealed 31 August.
„ 12. Capt. Martin's Examination, taken at the Committee 31 Aug.
„ 13. Sir George Rooke's Letter to the Committee of 7 Sept., received the 9th.

* Chamberlayne's State of England, 144.

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No. 14. Sir George Rooke's Account of his proceedings, received 9 Sept.
„ 15. Copies of Orders to Sir George Rooke and the Admirals, received from Sir George Rooke 9 Sept.
„ 16. Copy of Capt. Fairborn's Account, received from Sir George Rooke 9 Sept.
„ 17. A Letter from Gibraltar the 20th of June, received from Mr. Boddington 14 Sept.
„ 18. Extracts and Copies of Orders and Letters between the Admiralty and the Admirals about the Straits Squadron, received at the Committee from L. Falkland 21 September, 1693.
„ 19. Letter from the Admirals of the Fleet of 19 Sept. to Mr. Bridgeman, received the 21st.
„ 20. Letter of 21 Sept. from the Admirals of the Fleet to the Lords of the Committee of Council, received 28 Sept.
„ 21. An Account from the Admirals of the Fleet of their proceedings in relation to the Straits Squadron, received at the Committee 28 Sept.
„ 22. The Admirals' Letter to Mr. Bridgeman of 21 Sept., received at the Committee 28 Sept.
„ 23. Extract of a Letter from Sir Ralph Delavall of 29 June, received from Mr. Secretary Trenchard at the Committee 28 Sept.
„ 24. Extract of Letter from Sir Cloudesley Shovell of 8 June, received from Secretary Trenchard at the Committee 28 Sept.
„ 25. Mr. Southern's Letter of 5 Oct., with a copy of a Letter from the Commissioners of Exchange of Prisoners, touching the Captain and Lieutenant of the French fire-ship, who were ordered to attend the Committee this day.
„ 26. Copy of a Letter from the Commissioners for Exchange of Prisoners.
„ 27. Mr. Shallett's Letter of 5 October with Mr. White's Information, presented at the Committee 5 Oct. by Mr. Chancellor of the Exchequer.
„ 28. Mr. Heathcote's Letter, with Mr. White's Information, both presented by L. Nottingham 5 Oct.
„ 29. Mr. White's Information, received 5 Oct. 1693.
„ 30. Capt. Fairborne's Account, received and read 9 Oct.

Bundle II.

No. 31. Answer to some Questions proposed to the Admirals, received and read at the Committee 12 Oct. 1693.
„ 32. Twelve Questions presented by the Turkey Company, to be asked Sir George Rooke, received 12 Oct. 1693.
„ 33. Sir George Rooke's Letter of 18 Oct. to Mr. Secretary Trenchard, excusing his attendance.
„ 34. Sir George Rooke's Answers to the twelve Questions, read at the Committee 19 Oct. 1693.
„ 35. Capt. Cotterell's and Capt. Braddyl's Reply to Sir George Rooke's Answer, read at the Committee 19 Oct. 1693.
„ 36. Capt. Willmott's Reply to Sir George Rooke's Answer, read 19 Oct. 1693.
„ 37. Capt. Saunder's and Capt. Jacob's Reply to Sir George Rooke's Answer, read 19 Oct. 1693.

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No. 38. Mr. Bovett's Note for Witnesses.
„ 39. Robert Chapman's Information, read 19 Oct. 1693.
„ 40. Mr. Manning's Information, read at the Committee 19 Oct. 1693.
„ 41. Answers of the Admirals to the Questions proposed the 19 Oct. 1693; read the 23rd.
„ 42. Copy of Sir George Rooke's Letter of 14 May to the Admirals of the Fleet about victuals, and of his Order of 6 April to the Victuallers; read 23 Oct. 1693.
„ 43. Sir George Rooke's Answer to the Reply to Capt. Cotterell and Capt. Braddyll; read 23 Oct.
„ 44. Sir George Rooke's Letter of 23 Oct. to Mr. Secretary Trenchard, excusing his attendance that day.
„ 45. Order referring the Petition of the Turkey Company to the Council; read the 26th.
„ 46. Answer of the Admirals to the Question proposed to them the 23rd; read the 26th.
„ 47. Copy of a Letter from the Admirals of the Fleet to the Admiralty, dated 22 May, 1693.
„ 48. Copy of a Letter from the Admiralty to the Admirals of the Fleet the 23rd May, 1693.
„ 49. Copy of a Letter from the Admirals of the Fleet to the Admiralty, the 21st May 1693.
„ 50. Copy of a Letter from the Admirals to the Admiralty the 26th May, 1693.
„ 51. Copy of a Letter from the Admirals to the Admiralty the 28th May.
„ 52. Copy of a Letter from the Admirals to the Admiralty the 30th May.
„ 53. Mr. James Houblon's Letter to Mr. Warr, 16th May.

(*f*)[3]. 27 July. Petition of the Turkey Company to the Queen in Council, as follows:—

To the Queen's Most Excellent Majesty in Council.

The humble Petition and Address of the Governor and Company of Merchants of England, trading into the Levant seas.

Sheweth,—

That they do most humbly crave leave to lay before your Majesty the unhappy state and condition their trade and affairs are reduced unto by the retarding, and from time to time postponing the departure of their ships for Turkey, for near 18 months, after they had by a Memorial to the Right Honourable the Commissioners of the Admiralty prayed for convoy.

That your Majesty may please the more clearly to understand how matters have passed in relation to this affair, they do with all dutiful humility present to your Majesty the annexed copies of the several Addresses and Memorials delivered to the Commissioners of the Admiralty, by which your Majesty may pleased to be informed.

That by their first Memorial, dated the 4th September (*f*)[3], they prayed that a Convoy might be ready to depart with their ships directly for Turkey by the 20th of December then next following, which they further solicited by an humble Petition to your Majesty, under the 17th of the same month of September (*f*)[4].

That time being elapsed, the Petitioners by a second Memorial to that Honourable Board, dated the 11th of January (*f*)[5], did put them in mind of their said request, and further prayed that the Convoy might be ready to depart within 40 days.

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That upon intimation from that Board the Convoy should be ready at what time the Company would desire, they did by a third Memorial, dated the 20th of January (*f*)[6] pray the Convoy might be prepared to depart in the month of May, apprehending your Majesty's Royal Navy would by that time be at sea, and the danger in the Mediterranean much lessened by the enemies bringing the greatest part of their strength into these seas.

By their fourth Memorial, dated the 12th of April 1692 (*f*)[7] they again prayed their ships might go out in May and protections granted for the seamen; but upon the delivery of this Memorial they were told your Majesty had pleased to lay an Imbargo on all ships, and that without your Majesty's special command they could proceed no further, but withal promised if the Company would petition your Majesty for the ships to go out in June or at the furthest by the beginning of July, their Honours would assist the Petitioners therein.

By a Petition to your Majesty, dated the 17th April (*f*)[8], they most humbly prayed their ships might go out in the aforesaid month of May, or as soon after as your Majesty's greater affairs would permit; and it pleasing Almighty God to give your Majesty's Fleet a glorious victory in the said month of May, whereby the enemy was so broken and dispersed, that they were disabled to appear any more at sea in a body that summer, and the Toulon squadron being also come to Brest, the petitioners had good reason to esteem it so favourable a conjuncture as would not be omitted; and that those honourable persons who promised to intercede with your Majesty that we might go out in June, or the beginning of July (when such a happy success could not be foreseen) would effectually prevail, their ships might have been then dispatched: but to their very great trouble, notwithstanding their continued instances and solicitations in those months of June and July, this promising opportunity was totally neglected and lost.

About the latter end of July or beginning of August, they were sent for to attend the Right Honourable the Lords of the Committee of Trade, who were pleased to tell them they must be gone by the end of August; to which it was answered, That their goods were ready, but by reason of the great uncertainty and suspense they were so long held under, were not put on board, nor could be shipped within that time, desiring only until the 10th of September. But their Lordships would not grant a day longer than the 5th, wherewith the Company being made acquainted, they were well satisfied, and made provision, and laded their goods accordingly, at their great expense.

On or about the 28th September, some of the Company attending the Council Board, were asked whether their ships were ready; to which answer was made, they were ready to attend the Convoy; whereto their Lordships replied the Convoy of six ships was ready, but withal advised them to attend the Right Honourable the Earl of Nottingham, who was pleased to say, the French had a great force in the Mediterranean, having lately sent a strong squadron thither, so that it might be worth the Company's serious consideration whether it would be prudent to adventure so great an estate with such a convoy; further acquainting them that it was resolved a very considerable force should be sent into those seas, to depart by the 10th of November, under the protection whereof their ships might go with the greater safety. Which matter being reported and considered at a General Court, it was agreed to embrace the proposal, and to defer the departure of their ships until the said time; ordering that some of their members should wait upon

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the Earl of Nottingham to acquaint his Lordship therewith, and withal to press that his Majesty's ships might be got ready by the time.

On the 14th November, the Lords of the Admiralty gave intimation the Convoy was hastening, and that it was convenient their ships should be in the Downs by the 1st December.

On Saturday the 11th December, the persons deputed by the Company attending the Cabinet Council at Kensington, his Majesty present, were asked, what their opinion was as to their ships safe proceeding with convoy of twelve English and six Dutch men of war; they answered, that if six or seven third rates were added, they thought they might then go with the greater honour to his Majesty and safety to the Fleet. Whereupon they were commanded to withdraw, and after some time called in again, and the question being put to them whether they were contented to proceed with the aforementioned Convoy of 18 men of war, they unanimously replied they were content, if a greater strength could not be granted, and thereupon pressed for a speedy departure, as that which tended greatly to their safety. And intimation was hereupon given for our ships to be in the Downs by the 1st of January, where they arrived about the middle of that month, and thence with the first fair wind sailed for Spithead, where they arrived about the 10th February.

The 17th of February, the Commissioners of the Admiralty being attended, declared the Squadron for the Mediterranean had orders to sail with the first fair wind, and Admiral Rooke was sent down in great haste, but was still detained for about three months longer.

On the 13th of May, a member of the Company being at the Earl of Nottingham's office, his Lordship desired him to acquaint the Turkey Merchants that several Lords of the Council were that day going down for Portsmouth to give order for the Royal Navy to sail forthwith, and to take the Turkey fleet along with them and carry them off Brest, and according as the Admirals heard of the French Fleet they would let the Turkey fleet proceed on their voyage.

The 30th of May the whole Fleet sailed, and on the 6th June, being then about 50 leagues off the Land's End, Sir George Rooke was left, not having seen or heard anything of the French Fleet, although before the Fleet sailed from the Isle of Wight, it was generally reported the French sailed from Brest on the $\frac{10}{20}$ May.

And now having laid before your Majesty the several proceedings made by the petitioners in order to the obtaining protection for the trade and commerce into the Mediterranean, which might, in all probability, have been performed with great security at any of the times aforementioned, except only this unhappy conjuncture, which hath proved so fatal to the petitioners and many other of your Majesty's subjects, and, if the providence of God had not graciously interposed, might have been far worse, although they are not fully secured of that which is their main and principal hope, viz., the four ships at Gibraltar. The petitioners do most humbly pray your Majesty will please to make a serious reflection hereupon and to examine from whence these delays, and such a dispatch of the Mediterranean Fleet have arisen, which have been the occasion of so great a loss and dishonour to the kingdom.

The Petitioners do further humbly beg leave to represent to your Majesty the present state and condition of their affairs in Turkey, in the following particulars:—

1. That by reason of this long interruption of trade, they are become indebted in Turkey and at home about 20,000*l.* sterling, besides the

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growing charge of your Majesty's Ambassador and other unavoidable expenses there, which they can no way defray but by laying an imposition upon Trade, and when that ceases, their powers to raise money are at an end. For two years past their charge in Turkey hath, in a great measure, been borne by money taken up at an extravagant interest of 12 to 18 per cent. per annum, the which they have now credit no longer to do, which is such a blemish as the English nation hath never undergone, and by means whereof they are become unable to support the charge of their Government there.

2. The Company being under contract with the ships in their employment to allow them demurrage, which will amount to near 3,000*l* per month, the so long a time will cause it to arise to so great a sum, that it will be insupportable.

3. The woollen manufactures have been laden many months on board, and some of them bought about three years since, which gives just occasion to suspect they are in a perishing condition.

4. The petitioners are under apprehensions the French may make such improvement of the late disaster, as to reduce the reputation of our nation in Turkey to so low an ebb, as for aught they know may endanger their estates and the persons of their factors.

5. The long disuse of the trade will greatly hazard the total loss thereof, by putting the Turks upon other mean of supplying their occasions and encouraging other nations to introduce a trade of woollen manufactures with them, which afterwards it may be hard to divert, and as difficult for the Company to re-establish their own.

6. That by the long delay, the petitioners to whom the management of the trade into Turkey is by your Majesty's Royal Charter entrusted, are not only discouraged and in a manner incapacitated from laying out any more money in the woollen manufactures, which may soon reduce the manufactures to a complaining condition, but disabled to supply the kingdom with the unmanufactured commodities of Turkey, as silk, grogram, yarn, &c., which employ so great numbers of artificers, for want whereof the silk manufactury is like to be lost, and the poor subsisting by it utterly ruined.

The petitioners do therefore most humbly pray your Majesty will graciously please to take the premises into serious consideration, and to apply such timely and effectual remedies as may tend to the ease of the petitioners and the immediate securing the trade into the Mediterranean, which is of so great concern and importance not only to the petitioners, but to this your Majesty's kingdom in general.

And the Petitioners shall ever pray, &c.

Signed, G. Berkeley, Governor. *Dated* 27 July, 1693. *Endorsed*, The Turkey Company's Petition. Read in Council July 27, 1693. To be brought to the Committee of the whole Council. *Numbered* No. 1.

(*f*)[3]. 4th September 1691. Copy of Memorial of the Turkey Company to the Commissioners of the Admiralty, as follows :—

To the Right Hon. the Lords Commissioners for executing the Office of Lord High Admiral of England.

May it please your Lordships,—

The Governor and Company of Merchants of England trading into the Levant Seas, having in obedience to your Lordships' commands, duly considered the great estate they are like to send out by their next ships for Turkey, and the vast importance the security of the said ships will be, both to this Company and the nation in general, do humbly offer to your Lordships' consideration the following propositions in order

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to a convoy for this year's trade unto the several ports within the territories and dominions of the Grand Signor, reserving such further instructions to the captains of the convoys as the circumstances may require and as hereafter shall be adjudged necessary by this honourable board.

1. They do humbly conceive that the occasions of this Company may require about ten sail of good merchant ships to export the manufactures and productions of this nation proper for their trade.

2. It is humbly proposed to have those ships with their convoys to sail from the Downs about the 20th of Dec. next, by which time the several members of the Company may be fully provided of their quantities of such manufactures and productions of the nation as may be sufficient to lade them.

3. That the said convoy and merchant ships at the time aforesaid may sail directly for their respective ports, without stopping at Cadiz or any other place, the great and imminent dangers which attended that method the last year giving us good grounds to hope the inconvenience of it will now be redressed, and induce your Lordships to pursue the present proposals for the time to come. And further we conceive that our ships going out in the winter season and directly to their ports of discharge, will not only highly contribute to their safety, but be a probable means likewise to obtain a good passage and expedite the voyage out and home, and consequently render the charge the less to their Majesties.

4. We do most humbly pray your Lordships that a favourable report thereof may be made to their Majesties, that so such considerable convoy may be allowed for us, as the circumstances of the time may require, and proportionate to the greatness of the estate and the dangers it will be exposed unto.

Which is humbly submitted to your Lordships' great wisdom and goodness.

Dated this day. *Enclosed* in preceding.

(*f*)[4]. 17th September, 1691. Copy of Petition of the Turkey Company to the Queen, as follows :—

To the Queen's Most Excellent Majesty :—

The humble Petition of the Governor and Company of Merchants of England, trading into the Levant Seas.

Sheweth,—

That the Petitioners, who by his Majesty's Royal Charter are entrusted with the management of the trade into the dominions of the Grand Signor, and empowered to make laws and orders for the good government thereof, have by the practice of many years, found that it hath greatly conduced to the better carrying on the trade, (especially in the times of war), at a General Court of the said Company to elect and appoint such a competent number of good ships as might be sufficient to carry out the cloth and woollen manufactures of this kingdom which any member of the Company should think fit to provide and export, at the same time prohibiting that any of the said commodities should be exported upon any other than ships so appointed, whereby the several members trading upon equal terms in going to the market, (and the ships going out together for their greater security against the enemy), each of them hath the more cheerfully pursued his trade and enlarged his adventure, whereby the exportation hath been considerably increased. And the petitioners holding it expedient, during the present war with France, to prosecute the same successful method, have agreed to appoint a sufficient number of ships for the several ports of Turkey

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to depart by the 20th of December next, if your Majesty shall be graciously pleased to grant them a protection suitable to the great estate that will go out and the dangers they would be exposed unto, and to this end have a memorial now lying before the Rt. Hon. the Commissioners for executing the Office of Lord High Admiral of England, &c. *Dated* this day. *Enclosed* in $(f)^2$ above.

$(f)^6$. 11th January, 1691. Copy of Memorial of the Turkey Company to the Commissioners of the Admiralty, as follows :—

To the Right Hon. the Commissioners for executing the Office of Lord High Admiral of England.

May it please your Honours,—

The Levant Company in September last did lay before you a Memorial relating to a convoy for their ships intended for Turkey, to be laden with the manufactures and productions of this kingdom, therein proposing, with all submission to the Honourable Board, the 20th of December as a proper season for their departure and the better securing the said fleet out and home. And, forasmuch as that time is elapsed and the Company's ships now prepared and fitted and their lading in readiness to be put on board, which may be effected in 40 days :

The Company do therefore pray your Honours that a good and sufficient convoy, adequate to the great estate and the present danger, may be allotted for them, to be ready by that time to conduct their ships and estates directly for their respective ports in Turkey. All which is humbly submitted to your Honours' great wisdom. *Dated* this day. *Enclosed* in $(f)^2$ above.

$(f)^6$. 20th January, 1691. Copy of Memorial of the Turkey Company to the Commissioners of the Admiralty, as follows :—

To the Right Hon. the Commissioners for executing the Office of Lord High Admiral of England.

May it please your Lordships,—

The Levant Company having deliberately considered the intimations they lately received from this Honble. Board, do with all gratitude acknowledge his Majesty's great grace and favour in granting them a convoy for their ships into the Mediterranean, to be ready at such time as they should judge most conduceable to their safety. And inasmuch as the concern is great, not only in respect to themselves but the whole kingdom in general, they are sufficiently sensible that their utmost care and caution to prevent so great an estate from falling into the enemy's hands is absolutely necessary.

To that end therefore they most humbly propose, that their ships under his Majesty's convoy may depart in the month of May, by which time they conceive the Royal Navy will be abroad and their security the greater in these seas ; and by that time also the danger of the French squadron now in the Levant will either be removed, or a greater force necessary to protect our trade and commerce in those seas.

One thing further of great importance may be superadded hereto, that their departure at that season will be no obstruction to the well and more speedy manning out his Majesty's Royal Navy, to which God Almighty grant good success.

These considerations we presume to lay before your Honours as the present sentiments of the Company, with all submission to your greater wisdoms and judgments. *Dated* this day. *Enclosed* in $(f)^2$ above.

$(f)^7$. 12th April, 1692. Copy of Memorial of the Turkey Company to the Commissioners of the Admiralty, as follows :—

To the Right Hon. the Commissioners for executing the Office of Lord High Admiral of England.

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In obedience to your Honours' commands, signified to us by Mr. Secretary Sotherne, we presume to remind your Honours of a Memorial preferred by this Company to the Honble. Board dated the 20th January last, wherein we humbly proposed the departure of our ships for all parts of Turkey to be in the mouth of May, therein offering such reasons as then occurred to us for the same, with submission to your Honours' greater judgments. And having now further considered of that great and important affair, we still are of opinion that the said month of May is a proper season for our ships' departure, and accordingly do humbly pray, that your Honours will be pleased to direct a convoy of force and strength suitable to the estate designed upon that fleet, which, by reason of their stay, is now greatly augmented.

And we do further pray, that protections may be granted for the present to the several ships (in proportion to their burthens), as may be sufficient to take in their ladings and secure the estate when on board, according to the particulars enumerated at the foot hereof and, in due time, protections for their full complements of men.

	Tons.	Men.
The George, Richard Boucher, commander -	600	30
The Chandos, John Bonnel - - - -	600	30
The Asia, John Hazelwood - - - -	400	20
The Loyalty, Henry Custance - - -	400	20
The Aleppo Factor, John Frost - - -	315	16
The Concord, Richard Younge - - -	215	11

Dated this day. *Enclosed* in $(f)^2$ above.

$(f)^5$. 17th April, 1692. Copy of Petition of the Turkey Company to the Queen, as follows :—

To the Queen's Most Excellent Majesty :—

The humble Petition of the Governor and Company of Merchants of England trading into the Levant Seas.

Sheweth,—

That the Right Hon. the Lords of the Committee of Trade did in the month of May last, upon the settling the general convoys for the last year's trade, summon the Petitioners (amongst other Merchants) to propose a convenient time for their ships to go out, that convoy might be accordingly assigned for them, but the homeward bound Fleet not being then arrived, the determination thereof was at that time suspended. That the petitioners [in pursuance] thereof did upon the 4th day of September last present a Memorial to the Right Hon. the Commissioners for executing the office of Lord High Admiral of England, praying for convoy of their ships directly for the several ports in Turkey to depart the 20th of December last; this Company thereupon providing great quantities of the manufactures and productions of this your Majesty's Kingdom, contracting with several ships to carry and transport the same. But that time elapsing (as we do most humbly conceive for the conveniency of your Majesty's affairs), we did upon the 20th of February, make application to the said Commissioners for convoy to depart in all May; apprehending by that time your Majesty's Royal Navy would be at sea, completely manned, and the danger in the Mediterranean much lessened by the enemy bringing the greatest part of his strength into these Western Seas, which proposal then seemed so very reasonable to that Honourable Board, that we had great assurance of your Majesty's protection at that time.

But so it is, may it please your Majesty, that upon our further application, the 12th instant, we were then informed by the Commissioners that a general Imbargo was laid upon all ships by your Majesty's

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special command, so that without your Majesty's further pleasure signified unto them, they could proceed no further in this affair. And inasmuch as it is a matter of great importance to the nation, and now two years complete since the manufactures have been exported into any part of Turkey, to the great prejudice of the poor manufacturers in particular, and the Kingdom in general, besides the danger of forfeiting the trade to other nations, who now make great advantages by our delays; and lest the petitioners for want of due application should be further postponed, and thereby incur your Majesty's royal displeasure, or become liable to complaints in Parliament,

They do therefore most humbly pray, that your Majesty will be graciously pleased to take off the Imbargo of their ships, granting convoy for them suitable to the great estate they will carry out and the danger they are like to be exposed unto, to depart in all the month of May next, or so soon after as your Majesty's great affairs will permit, which will greatly tend to their security. And also that protections may be granted, for the present, to such small numbers of seamen as may be sufficient to take the goods on board and secure the ships in the river, and in due time protections for their full complements of men.

And the Petitioners shall ever pray, &c. *Dated* this day.

Enclosed in $(f)^2$ above.

$(f)^9$. 10 Aug. 1693. Order in Council for the Committee of Trade and Plantations to meet on the 16th inst. to consider of the Petition of the Levant Company, lately presented to Her Majesty in Council, and for the Committee of the Company to attend. *Signed* Wm. Bridgeman. *Dated* this day. *Numbered* No. 2.

$(f)^{10}$. Aug. 17. Information of John Rutter, as follows: "About the 2nd of January, 1692, I, John Rutter, was hired by De Levere to proceed with my Pink *Judith and Ann* from London to Kingsale to take in such French prisoners of war as should be there put on board my said Pink, and deliver them in France, and I arrived with them at St. Malo in the month of March, where I delivered them on shore. In my said voyage several of the said prisoners, who had been commanders of Cappers, often said Mr. Prestman was their very good friend, and that of every ship of ours which were ordered to cruise, they knew what was their stations as well as they did themselves. When I had delivered the said prisoners on shore, according to my instructions, I demanded of the French Commissary and Governor such prisoners of war, to be put on board my ship, as were their Majesties' subjects, to which was answered that there was an English vessel there that was to transport them, they being upwards of three hundred, which the said vessel was supposed not capable to take in, and the said prisoners, knowing the danger of their lives or healths would be very great in so small a ship, were mightily concerned thereat, many of them, as I heard, (being a prisoner myself in the Castle) rather than undergo such a difficulty, entered themselves in the French King's service. Whilst I remained in prison, which was about eighteen days, several French and Irish gentlemen came to visit me, and some of them did at several times desire to see my pass, and taking notice of the Earl of Nottingham's hand at the bottom, said that did much rejoice and revive their hearts to see it, adding he was a very good man and they often drank his health. Also while I was there, one Drake, who is, as I think, Agent for Mr. De Levere, told me (as I suppose to tempt me to serve the French interest), that if I intended to get money, [I] must do as Tutterer did (who was master of a vessel belonging to Mr. Richard Holder and had

1693. — No. 765. for a considerable time been employed in transporting prisoners), which was, to take in French gentlemen under the denomination of prisoners and bring them back again to France, for which [I] might have 20, 30 or 40 guineas each. But I, apprehending such persons might be spies, utterly refused so to do, after which time I never see him more, although before that time [I] had his frequent visits. Two days before I came away from St. Malo, I heard they carried my ship out into the Range [Rance], whither they sent me on board, where I had orders to sail for Nantes to take in currants, and such prisoners of war as should be there, and that I should there meet with their Majesties' Orders for so doing, which would be sent me from Paris by Mr. De Levere together with my clearing. I arrived at Penbeiffe in the river of Nantes the last day of March, when I demanded the prisoners and the King's Orders for loading the currants which they put on board, but was answered that was not a port to transport prisoners, and I might proceed or stay there, as I pleased. So on the 5th of May, 1693, I set sail for England, and the 6th at night came in at the Fontayne head, and turned up that night under St. Mathew's point, where I lay by, the wind being E.N.E., and in the morning see 15 sail of French men of war and 4 more great ships coming out of the River of Brest, and heard the guns firing as a signal of more standing out, on which I told my ship's company the French Fleet were out, and if they took notice of us, we might be stopped, and therefore it was best for us to make what way we could; so reaching the Forme, met with the wind veered, and we stretched it over for the coast of *England* and fell in with the Lizard, where [we] met with a French Capper of 10 guns and 6 Pathereros, who told me that, a day or two before, they were chased by the *Lenox*, *Newcastle* and *St. Vincent* fireships, in which they being within gunshot of him, his main-topsail yard broke in the slings, at which time the *Lenox* fired a gun to leeward and gave over the chase, hauling close to the wind, when, had they continued their chase but a very little time longer, he must have been their prize. They farther told me they very well knew our said ships were then out of their appointed station. That night, being the 9th of May, the wind being at S.S.W., we ran up to Plymouth, when [we] met with the before-mentioned three ships of their Majesties, and in the morning, they seeing I came out of the sea, the *St. Vincent's* boat came on board me to press men, when I gave them an account from whence I came, on which they sent and acquainted Capt. Carr thereof, who took me with him to the Spithead, where I was immediately carried on board the *Britannia*, which was the 11th of May, as I remember; where Admiral Killigrew examined me about my loading, but not one word concerning the enemy or their fleet; but I declared of myself that I see their ships come and coming out as beforesaid, Sir Cloudesley Shovell being by, and I did not see any person writing to take an account what I said; but Admiral Killigrew told Capt. Carr I must be delivered up to the Prize Office. On my coming to London, going up to attend the Prize Office, and being in the Privy Garden at Whitehall, Parker, Esq., asked me what I had observed in my voyage, (at which time there were several gentlemen about us, and I asking a person by me, whom I did not know, who they were, he answered two of them were Lords of the Treasury), when I gave him some account and how I was on board the Flag. *Signed* John Rutter. *Noted:* "Mem: Aug. 17, 1693. John Rutter made oath that the contents of this paper are true, before me, Wm. Bridgman." *Endorsed* in Mr. Bridgeman's hand: "Mr. Rutter's Information Aug. 17, 93." *Endorsed* also, in other hands,

"Read at the Committee 17th Aug. 1693," and "Read 20 Nov. 93." *Numbered* No. 3. 1693. — No. 765.

(*f*)[11]. Letter, from Brest, as follows :—

Brest, 18 Maii 1693.

Depuis ma derniere lettre M. de Gabaret est arrivé avec les vaisseaux de Roschefort, et nous commencons aveoir parcontre ceux du port Louis. M. Le Maréchal de Tourville a donné ordre pour partir après demain, et nous avons deja commencé de mouiller en bataille dans cette rade. Je vous envoye l'ordre du mouillage au nombre de 71 Navires de Ligne dont vous avez la liste cy joint. Nous mouillons sur deux lignes pour être mieux en bataille ; la premiere contient 20 navires et la seconde 22. On a pris les plus gros vaisseaux pour former ces deux lignes, et ceux d'une force un peu plus mediocre pour le corps de reserve. Lorsque les vaisseaux du port Louis nous auront joint, la flotte sera compose de 85 navires de ligne, dont il n'y en aura aucun au dessus de 50 . . . de cannons et tous parfaitement bien armés. Mon vaisseau sera le 5me de l'avant garde.

Ordre du mouillage de la flotte de France à la rade de Brest.

Premiere Ligne du costé du port.			Seconde Ligne de l'autre costé du port.			Corps de Reserve.		
		hommes			hommes.			hommes.
La Sirène (?) -	60	400	Le Courtisan - -	60	400	Le More -	62	400
			Le Vermandois -	60	400			
Le Parfait - -	70	450	L'Escueil - -	70	450	Le Vaillant -	58	390
			Le Confiant - -	82	550			
L'Excellent - -	74	450	Le Merveilleux -	106	850	Le Fortuné -	60	400
			Le Magnanime -	90	600			
L'Agreable - -	62	400	Le Henry - -	70	450	Le -	50	300
			Le Laurier - -	60	400			
Le St. Esprit - -	76	450	L'Ardent - -	70	450	Le Prince -	60	400
			Le Grand - -	90	600			
Le Victorieux - -	100	700	Le Terrible - -	106	900	Le -	54	350
			Le Vainqueur - -	90	600			
L'Ambitieux - -	96	650	Le Brillant - -	60	400	L'Indien -	60	400
			Le Prompt - -	60	400			
			Le Capable - -	64	400	L'Envieux -	60	400
			Le Sansparell -	60	400			
Le Glorieux - -	62	400	L'Aymable - -	70	450	La Perle -	62	400
			Le Dauphin Royal -	104	700			
Le Conquerant -	82	550	La Couronne - -	80	500	Le St. Louis -	64	380
			Le Fort - - -	70	450			
L'Admirable - -	106	800	Le Superbe - -	70	450	L' Eole -	64	380
			Le Magnifique -	96	650			
Le Soleil Royal -	108	1,000	L'Entendu - -	66	390			
			Le Neptune - -	50	300			
L'Orgueilleux -	90	600	Le St. Jean d'Espagne.	60	354			
Le Constant - -	60	400	Le Marquis - -	62	400	Il faut adjouter		
			Le St. Michel - -	62	400			
L'Illustre - -	76	450	Le Precieux - -	60	400	26 Fregattes.		
			Le Temeraire - -	60	400			
Le Pompeux - -	82	550	Le Mignon - -	70	450	24 Brullots.		
			Le Molere - -	60	400			
Le Juste - - -	66	390	Le Trident - -	50	300	25 Feuttes.		
			L'heureux retour -	54	350			
Le Souverain - -	82	550	Le Courageux -	72	450	Barques Longues.		
			Le Brain - - -	60	400			
Le Formidable -	90	650	Le Francois - -	54	350	Galliots à bombes.		
			Le Brusque - -	60	400			
L'Intrepide - -	90	600	La Marie Elizabet -	50	300	1 Mortier guigette, 800 lbs.		
			Le Diamant - -	60	400			
Le Bigearre - -	72	450	Le Vigilent - -	50	300			

Addressed to John Van Deward, March[d] in Harwich. *Endorsed*, "Letter from Brest. May $\frac{8}{18}$. 1693. Given in by Sir John Houblon and read in the Committee Aug. 24, 1693." *Numbered* No. 4.

(*f*)[12]. Mr. Boddington's Information, as follows :—

"Wednesday, 15 August 1693. It was reported by John Rutter [*torn*] coming from Nants, leaving [*torn*] St. Mathews [*torn*], saw

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the 7th of May 15 [*torn*] ships at sea and 4 more coming out of the [*torn*]'s mouth, and that he heard guns intimating more ships were coming out or coming to sail. He said that whilst he was in France, when he showed his pass or commission, and any of the French officers saw or came to read the name of Prestman, they used expressions of joy or would rejoice, as also at one other. The 9th of May he came in with the Lizard, where he met with a French privateer of 10 guns, 6 Patt., who told him he was chased by the *Lenox*, *Newcastle* and *St. Vincent* fireship, who chased him the 8th, so long that his main top-sail yard flew in sunder in the slings, the *Newcastle* and *St. Vincent* or they being within gunshot the *Lenox* fired a gun to leeward for them to give over the chase, when they might have had him in a quarter of an hour, and he said he knew they were out of their station. 11th May he said was met by the *Newcastle* and carried into the Spithead and on board the Admiral's, and then gave an account as above of the ships coming out of Brest to the Admirals, or one or some of them, and he had been examined or had given an account hereof to the Lords of the Treasury, Sir Roger Lawley and Esqre Parker being present, but I asked him not whether of all or [*torn*] he gave them an Ac[t]" *Endorsed*: "Mr. Boddington's Paper, d[d] and read to the of Trade etc., by himself the 16th of [*torn*] 1693." *Endorsed* also: "Read 20 Nov. 93." *Numbered* No. 5.

(*f*)[18]. 27 July. Capt. Martin's Narrative of Sir George Rooke's meeting with the French Fleet, as follows:—

My Lords,

In obedience to your Lordships' commands of making a narrative of what passed in Sir George Rooke's encounter with Mons. Tourville, I shall think it my duty not only to lay before you the naked matter of fact, but likewise to give the reasons, as far as they came to my knowledge, which produced the several movements in that action.

On the 16th of June, early in the morning, we came in sight of Cape St. Vincent, and as we drew nearer, about 11 o'clock we saw two strange ships on this side the Cape, which we believed at first by their manner of working, to be Argerines, for though they had a fair view of us, and might easily discover what we were, they continued however to stand towards us for a considerable time. Our own scouts, which were employed ahead of our fleet, happening to be somewhat in with the shore, could not come up with them till about 3 o'clock in the afternoon, at which time the *Chatham* engaged one of them, who together with the *Newcastle* and the *Sheerness* following them as they bore away, discovered nine more of the enemy's ships about the head of the Cape. Immediately upon this, Sir George Rooke called the other Flag Officers aboard him, to advise with them what was fittest to be done in that conjuncture, and the question being put whether, in case the enemy's force were superior to ours, (as it was to be believed they were), they should proceed to engage them, Monsieur Vandergoes argued that though that question was to be answered in the negative, yet such a resolution in general would be of little use to them as to their main conduct, which in his opinion depended wholly upon the certain knowledge of the enemy's strength. Sir George Rooke urged the consequences that attended the issue of their debates, the great interest which both nations had in the bottoms of those merchantmen which were under their convoy, and that he apprehended they would have not only the Toulon fleet to deal with, but that according to some intelligence we had before we left England, Monsieur Gabarett might have strengthened them with a squadron of 12 or 14 men of war from Brest.

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Monsieur Vandergoes replied that this whole matter was uncertain, and supposition only, and concluded that before they should think of retreating from the enemy, they ought to be well informed that they were of a force to justify such a retreat. It was at last resolved that the fleet should lie by that night, and that the next morning scouts should be sent out to make discovery of the enemy's strength and posture; that if they should be found not much superior to our force, in such case we should engage them, but if they exceeded us to a great disproportion, that then we should avoid fighting. But when this Resolve was to be signed, Monsieur Vandergoes raised new objections, and observed that though it were to be desired a discovery might be made by scouts, yet the thing was in the present case impracticable, for that the enemy's scouts would still be in a condition to obstruct the approach of ours. He was of opinion no time ought to be lost, and that since we had the advantage of a fresh gale, we ought to make use of it, and view the enemy with our whole fleet. To this Sir George opposed the apparent hazard of such a resolution, which might carry them beyond the possibility of a retreat, when they should see it necessary to make one. But it was replied, (if I remember well), that orders were positive for the conducting our merchantmen to Cadiz, and that though the enemy were of the force which we imagined them, the fresh northerly wind gave a fair opportunity of pushing our way through them, and gaining that Port. This being likewise the opinion of Col. Hopson, they came to the following resolve, That we should stand our course for Cadiz, so as to avoid fighting if possible, but if it should so happen as not to be in our power to decline engagement, that then we should endeavour to push our way through them in the best manner we should be able, having regard to keep the men of war in such order, as might most contribute to the security of the merchantmen. This Resolve being communicated to many of the Captains of our men of war, who were then on board of Sir George Rooke, and being strengthened by their concurring votes, was immediately pursued, and orders being sent to the greatest part of our Turkey ships to be ready the next morning to place themselves, upon the signal made, in our line of battle, and other directions distributed for the conduct of the rest of the merchantmen, we continued our course in the evening with what sail we could, and arrived before break of day with Villa Nova, where we were becalmed, having observed the enemy's signals for weighing, as we conceived, though several of them cut from their anchors whilst we bore down towards them, and they all made away from us with so great precipitation and left behind them such marks of their fear of us, as already disposed us to believe they could not be of that force which we at first apprehended they were; for in this place it was that early in the morning a fireship of the enemy's, whose boat with the lieutenant and several of the ship's company being on shore occasioned his stay behind the rest of their fleet, happened to fall into our hands. The Captain of the said fireship and the Lieutenant of another ship, who was under confinement there, were immediately brought aboard Sir George Rooke and examined in presence of several English Officers. The Captain told us that the fleet, which had been at anchor in Lagos Bay, was commanded by Monsieur Tourville, that he could give no exact account of their number, being himself but lately arrived thither but being pressed to tell the best of his knowledge, he affirmed that they consisted of about 30 sail of men of war of all sorts, that they had been detained there by calms and contrary winds, but were designed for the Straits to join Monsieur d'Estree, which was all the information

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we could then procure from him. The Lieutenant excused himself from giving any manner of account, as a person whose duty obliged him to say nothing that might be to the prejudice of his King, and two other persons which belonged to the said fireship, vizt. the Master's mate and the gunner, were likewise examined separately, who both of them, after they had been prepared as well with fair promises as with threats, according as they should be found to deserve, affirmed resolutely that there were but 15 men of war in all with Monsieur Tourville; that indeed there were many store ships and merchantmen, to the number of about 40 sail; that they had lain about 14 days in Lagos Bay, and were bound to join the Toulon squadron in the Straits, which story they persisted in with the most solemn asseverations that could be made. By this time we saw several provision ships and tenders of the enemy, which had been left behind and the men taken out of them, blown up to hinder their falling into our hands, and a Portuguese boat with two poor men came aboard us to sell herbs and fruit. These men told us that it was Monsieur Tourville's fleet which had been at anchor in the bay, that they were about 120 sail, among which were only two Flags. One of them affirmed that the said fleet had been there about 20, the other about 8 days, that they came from the West, and that they had seen no ships arrive there from the Levant. They added many violent reproaches against the French, and they carried this so far, that, comparing it with the other inconsistencies we met with in their relation, there seemed to be a more than ordinary appearance of artifice in it, and we were induced to believe they had been employed by some French which were ashore, to divert us from prosecuting an advantage we had against an enemy much weaker than ourselves. It would have been very happy had Sir George Rooke known at this time, that there were Moorish slaves aboard the said fireship, from whom he might have drawn an impartial account of matters, but I am very confident that he was not acquainted with it till it was too late, and that the action was already over. So many circumstances in the meantime seemed to concur of the weakness of the enemy, and that particularly of their firing and abandoning their ships was so convincing, that being unluckily possessed with the intelligence of Monsieur Gabarett's being gone out to join the Toulon squadron, we drew very positive consequences that it must be him who had not yet gained the Straits, and this confirmed all our Commanders in the resolution which had been before taken, so that when the sea breeze sprung up, we bore down upon the enemy, and about 3 in the afternoon we were near enough to be sufficiently undeceived, having a very near and apparent prospect of the whole Brest fleet. Upon this, and a message from the Dutch Vice-Admiral, Sir George Rooke brought to, immediately despatching the *Sheerness* with necessary orders to the merchantmen for their conduct, and standing off with an easy sail, till the enemy gaining visibly upon us, he was forced to use more. About this time several of the Dutch men of war, who were at first in the head of our line, and many of their merchantmen fell to the leeward, and within reach of the enemy's guns; who made brisk fire at them, particularly Monsieur Gabarett and Monsieur Panetie, the Admiral and Vice-Admiral of their Blue; insomuch that those Dutch ships, perceiving it impossible to keep up with us, did about 7 o'clock stand in for the shore; and hereupon the said Admiral and Vice-Admiral of the enemy tacked likewise and stood in after them, their whole line doing the same, except the two headmost ships of it, who bore us company all night, and notwithstanding the signals they made from time to time to

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advertise their own fleet of our motion, we saw no force of the enemy to the windward of us, as we apprehended we should, the next morning, and by this unaccountable manner of their working we were perfectly clear of all apprehensions of them in a short time after. This is the best relation I can make of the conduct which has been observed by the Admiral and the other officers of our Straits Squadron in that remarkable encounter, and I shall have nothing more to trouble your Lordships withal, when I shall have added that I can give no account of any orders which Sir George Rooke received from the Admirals of the Grand Fleet, nothing of that nature having come to my knowledge either from himself or from any other persons. *Signed*, Joh. Martin. *Dated* 27 July 1693. *Endorsed* in Mr. Bridgeman's hand: "Received from my Lord Falkland and read at the Committee. Aug. 31. 93." *Endorsed* in another hand: "Read 20 Nov. 93." *Numbered* No. 6.

(*f*) [14]. 27 July 1693. Examination of the Chevalier de Lucenay, Commander of a fireship of the Enemy's called the Jolly, taken by Sir George Rooke in the Bay of Lagos, as follows:—

Questions.	Answers.
When Monsieur Tourville sailed with the fleet from Brest?	Monsieur Tourville sailed from Brest the 26th of May '93, N.S.
When he sailed, in what ship and in company of what ships?	He sailed from Brest in the above mentioned ship Jolly the 28th May N.S., in company with 3 men of war and some few fireships and flyboats.
When M. Tourville arrived in the Bay of Lagos?	He cannot tell.
When he arrived in the Bay of Lagos?	He arrived the 12th of June.
What number of men of war M. Tourville had with him?	That he had 60 sail of men of war, in three divisions, 20 with M. Tourville, 20 with M. Chateau-Renault and 20 with M. Gabarett, and flyboats and fireships 30, and 2 hospital ships.
When Sir George Rooke appeared in sight of the French Fleet at Lagos?	That Sir George Rooke himself and the Dutch Vice-Admiral came up to him the 27th June between 3 and 4 in the morning.
Where each of the three divisions of the enemy were when Sir George Rooke appeared?	That they were all at anchor above 15 days in the Bay of Lagos and that when Sir George Rooke appeared, they got under sail, thinking the whole fleet was with him.
Whether the enemy stood towards us, when they thought us to be the whole fleet?	That they made their way to join Monsr. d'Estree before Roses, the wind being at N.W., they steered their course before the wind for the Straits.
Whether any of the three squadrons was since their going out on the coast of Barbary?	He says they did not pa [*torn*] after sailing from Brest.
Whether they did not lay in the Bay of Lagos, in expectation of intercepting the Turkey fleet?	That they did not lay there for that purpose, but to join Monsieur d'Estree.

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Questions.	Answers.
How soon he was examined after being taken by the *Lark*?	He was examined two or three hours after he was taken.
By whom and before whom he was examined?	He says he was examined by several persons, but does not know by whom.
What particulars he was examined upon and what answers he made thereto?	He was asked what M. Tourville did in the Bay of Lagos, and he answered he waited for M. d'Estree. He was asked whether they took Sir George Rooke's Squadron for the merchant ships going to the Straits, and answered No, because they had no news of them. As also whether they did not lay there to intercept them, to which he answered they waited there to join d'Estree, and not for our merchant ships, but thought the whole fleet was with Sir George Rooke. He was asked what number of ships the French Fleet consisted of, and answered 60 men of war in three divisions, but that the three divisions were all together.
	He says that the before-going questions were all that was asked him, and that he gave those answers and no others to them.
Whether he did not tell Sir George Rooke that the fleet that lay in the Bay of Lagos was only a squadron, with a convoy of merchant ships?	He says he did not tell him any such thing, but that he was asked whether they were not merchant ships among them, to which he answered No, but that they were men of war.

Dated this day.

Endorsed in Mr. Bridgeman's hand: "Received from my Lord Falkland and read at the Committee Aug. 31, '93." *Endorsed* in another hand: "Read 20 Nov. '93." *Numbered* No. 7.

(*f*)[15]. 27 July. Examination of Chevalier Desautieux, a French Lieutenant, who was taken in a fireship of the Enemy's called the Jolly by Sir George Rooke in the Bay of Lagos; as follows:—

Questions.	Answers.
When M. Tourville sailed in the fleet from Brest?	He says that he sailed from Bertram Bay the 26th of May, N.S.
When M. Tourville arrived in the Bay of Lagos?	In the beginning of June, but does not know the particular day.
What number of men of war M. Tourville had with him?	He says there was 70 sail of men of war with him in the Bay of Lagos, which with fireships, flyboats, &c. made up 110.
When Sir George Rooke appeared in sight of the French Fleet at Lagos?	The 27th of June in the morning.

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Questions.	Answers.
Where each of the three divisions of the enemy were when Sir George Rooke appeared ?	He says they were all together in the Bay of Lagos.
Whether the enemy stood towards us when they thought us to be the whole fleet ?	That they made sail from our fleet till towards noon, but then discovering it was not the Grand Fleet, they detached their arrear Guard towards us.
Whether any of the three squadrons was since their going out, on the Coast of Barbary ?	He says that none of the squadrons was on the Coast of Barbary before Sir George Rooke came up with them in Lagos Bay.
Whether they did not lay in the Bay of Lagos, in expectation of intercepting the Turkey fleet ?	He says he knows not what they went to the Bay of Lagos for, or to what purpose they lay there.
How soon he was examined after being taken by the *Lark* ?	About two hours after.
By whom and before whom he was examined ?	He says he was examined by several officers, which he knows not, and that Sir George Rooke was present.
What particular questions he was asked, and what answers he made thereto ?	That he was asked several questions, but told them he would not answer anything that might be prejudicial to his King, nor did not.
Whether he did not tell Sir George Rooke that the fleet that lay in the Bay of Lagos was only a squadron with a convoy of merchant ships ?	He says that he said nothing upon that matter.

Dated this day. *Endorsed* in Mr. Bridgeman's hand: "Received from my Lord Falkland and read at the Committee Aug. 31, 1693." Numbered No. 8.

(*f*)[16]. 25 July. Examination of Capt. Lucenay, as follows:—

Le Chevalier de Lucenay Interrogé le 25 Juillet, 1693.

Dit,

Que Mons[r]. de Tourville partit de Brest le 26 May, N. S. Lui Capitaine partit le 28[e]. Il était dix jours à faire le voyage à Lagos, ou était le rendezvous de la flotte de France. Il y trouva Mons[r]. Tourville. Il resta la, jusqu'à ce qu'il fut pris le 26 Juin. Quand on a decouvert la flotte de Mons[r]. Rooke, au commencement on a cru que c'était la Grande Flotte ou l'armée navale. La dessus Mons[r]. Tourville fit les signaux pour mettre à la voile, ce que tout le monde fit, et sur les 3 ou 4 heures du soir le 26 Mons[r]. Tourville était à la voile. En ce temps, environ 17 hommes de son equipage étaient à terre avec sa chaloupe, ainsi il ne pouvait pas lever l'ancre, et fut pris le 27 à trois heures du matin. On me mena à bord de l'Admiral Rooke sur les 7 ou 8 heures. Je ne sais pas qui m'interrogea, mais on me demanda s'il y avait la des vaisseaux marchands ? Je disais que non, mais que c'était l'armée du Roi de France, commandée par Mons[r]. Le Marechal de Tourville, composée de soixante vaisseaux en trois divisions, Blanche et Bleue 20 vaisseaux, commandée par Mons[r]. Chateau-Renaud,

1693. — No. 765. Blanche par Mons^r. Tourville et Bleue commandée par Mons^r. Gabarett, ayant vingt vaisseaux en chaque division, et trois Pavillons chacune. Nous les croyions la flotte du Roi d'Angleterre, et ne nous trouvants pas assez forts, nous allions passer le detroit pour joindre Mons^r D'Estree qui était devant Roses avec 22 vaisseaux. "*De Lucenay.*" *Endorsed* "Capt. Lucenay's Examination 25 July 1693," and, in Mr. Bridgeman's hand: "Copy received from Mr. Secretary Trenchard and read at the Committee Aug. 31, 1693." *Numbered* No. 9.

(*f*)[17]. 25 July. Examination of Lieutenant De Sautieux, as follows :—

Gaspar l'Abbé de Sautieux, Lieutenant des vaisseaux, armé cette année icy sur le Brillant, étant interrogé le 25 Juillet 1693,

Dit,

Qu'il partit de Bertaume dans le Brillant le 26 de May. Il était pris dans le Brulot, y étant en arrest. Quand on l'a voulu examiner, il n'a pas voulu repondre, disant qu'il ne voulait pas nuire au Service du Roi son maitre. Il a oui dire au Chevalier de Lucenay qu'il y avait soixante vaisseaux, quand on dit donc qu'ils étaient petits, il dit : Je ne sais pas cela. L'Intendant de Mons^r. Rooke y était. Quand ils étaient à bord du Lark pour venir en Angleterre, Mons^r. Martin lui avait dit, que le bon homme Lucenay leur avait dit la verité, mais que nous le primes pour un vieux renard et ne le crûmes pas. "*De Sautieux.*" *Endorsed* "L^t. Sautieux Examination 25 July 1693," and, in Mr. Bridgeman's hand "Copy received from Mr. Secretary Trenchard and read at the Committee Aug. 31, '93," *Numbered* No. 10.

(f)[18]. August 21, 1693. Proceedings of the Commissioners of the Admiralty, entitled "Several Particulars relating to the Straits Squadron and Turkey Convoy, as follows :—

August 11, 1692. The Earl of Nottingham acquainted the Board by letter that they were to consider of a squadron of 16 English and Dutch for the Mediterranean.

August 12. A minute of the Council was sent to the Board by the Earl of Nottingham for the Board's considering what the Turkey Company desire, namely, that of the Convoy appointed for their trade, two third rates may be allowed instead of two fourth rates.

Sept. 3. The two ships to be added to the six to join the Spaniard and Dutch, to be supplied by two of the Turkey Convoy now going, upon their return to Cadiz.

Sept. 22. The names of the Ships designed for the Straits Squadron to be sent to the Cabinet, with an account by what time they will be ready.

Sept. 23. Sir Thomas Vernon and Mr. Faulkner, two of the Turkey Company attended the Board, and gave an account their ships were ready, and desired the Convoy might be hastened.

Oct. 24. Resolved, upon reading the Earl of Nottingham's letter of yesterday, a list be prepared of the Turkey Convoy.

The Turkey Convoy & ships for the Straits were at this time in the readiness following, viz^t. :

Turkey Convoy.

Rate			
3.	*Lion*	Chatham	Taking in Stores and provisions.
4.	*Monk*	Sailed to the Downs.	
	Woolwich		
	Princess Ann	Gone to Holland	Ordered to the Nore.
5.	*Lumley Castle*	Longreach	Taking in Stores, &c.
	Prudence		
Fireship	*St. Vincent*	Portsmouth	Cleaning.

Designed for the Straits.

3.	*Monmouth* -	- - - - - -	Ordered to Chatham.
4.	*Greenwich* -	With Sir Cloud. Shovell	To be fitted as soon as they come into port.
	Chatham -	- - - - - -	
	Kingfisher -	In Yarmouth Roads -	
	Loyal Merchant	In Longreach - -	Taking in guns, &c.
5.	*Charles* Galley	With Sir Cloud. Shovell -	To be refitted when she comes into port.
Fireships	*Vulture* -	Spithead - - -	Taking in provisions, &c.
	Speedwell -		

Nov. 23. The Turkey Company delivered a Memorial, setting forth how they would have the men of war proceed with the merchant ships to the Straits, both in their going and coming home.

Dec. 2. Some of the Turkey Company attended the Board and desired a stronger convoy. Resolved that the King's pleasure be known therein.

Dec. 4. The Turkey Company's proposals for convoy were read at the Cabinet, and they were ordered to attend the King at Kensington, on Friday next, about 5 in the evening.

Dec. 11. Sir Gabriel Roberts, Sir John Hublon and Mr. Falkner attended the King, and desired 5 men of war at least (2 to Smyrna and 3 to Scandaroon) might be detailed from the Straits Squadron. They were asked if they thought the intended squadron sufficient, and answered, yes; which they were directed to give under their hands; and the Board was ordered to report to the King the Thursday following what addition of strength could be made to the said squadron and when they may be ready; and also in what time any more ships, which cannot be ready so soon as the squadron, may be in a readiness to follow them.

The Report.

14 Dec. 92.

"We have, in obedience to his Majesty's commands, considered of an addition of ships to strengthen the squadron intended to be sent to the Mediterranean, and upon advising therein with the Officers of the Navy, we find that the five ships hereafter mentioned, viz.: The *Duke*, *Boyne*, *Cornwall*, *Royal Oak* and *Mary*, are the ships of force which may be soonest got ready; and having required from the said Officers and the Officers of the Ordnance and Commissioners of the Victualling, in what time the said ships may be despatched from those offices, we have received from them the Reports hereto annexed, whereby his Majesty may be informed in what time the said ships may be ready for this service.

C. R.O. H.P. F. R.A."

12 Dec. 92.

Navy Board's letter.

"Rt. Honble.

In obedience to your Honours' order of this day's date, we have considered in what time the works of the ships mentioned in the margin [viz.: *Duke*, *Boyne*, *Cornwall*, *Royal Oak*, *Mary*] relating to this Office can be dispatched, so as to be put into a condition of sailing; and from the accounts we have received of the said ships do humbly presume, if the *Duke* can be launched this spring, as we hope she will, if the *Boyne* and *Royal Oak* may go to sea without cleaning, if their companies give sufficient attendance, and if your Honours will please to dispense with any interruption that may be given to other ships by the despatch of these, the *Mary* and *Cornwall* being

1693. — No. 765. already cleaned, they may all of them be made ready, with respect to what relates to this Office in a fortnight, or by the end of this month at furthest, in case we receive timely orders for the same."

13th December. Letter from the Officer of the Ordnance.

"My Lords,

We have received your Lordships' letter of yesterday's date, desiring to know in how many days, after the ships are ready to receive them, we can furnish their Majesties' 5 ships, mentioned in the margin [viz.: *Duke*, *Boyne*, *Cornwall*, *Royal Oak*, *Mary*], with their ordnance and gunners' stores, for service in the Mediterranean. To which we answer, that upon the first notice, we shall be ready to supply the said ships with our stores, as fast as the gunners can take them on board, and doubt not but this service will be performed by us in 6 or 8 days' time."

Dec. 15. An Order of his Majesty in Council, that upon consideration of the Board's Memorial of the 14th instant, the *Duke*, *Boyne*, *Cornwall*, *Royal Oak* and *Mary* do not go to the Straits, but that the former convoy appointed be ready to sail the 1st of January next, and that such merchant ships as shall not be then ready remain under the embargo.

January 8, 1692–3. The King directed that Vice Admiral Rooke should command the Straits Squadron.

January 15. His Majesty directed a report to be made in how long time 4 or 5 ships might be got ready to strengthen the Straits Squadron.

The Navy Board's opinion was demanded herein, which they give in the following letter :—

19 January 92–3.

"Right Honble.

Having received an answer from the Commissioners at Chatham, touching the four third-rates proposed for the Straits, namely, the *Suffolk*, *Burford*, *Eagle* and *Restoration*, that the officers having nothing to object against their proceeding on the said voyage if thereunto appointed, except that they are unsheathed, which is not unknown to your Honours; the two former being launched the last Spring, and the two latter intended to be put into the water the next, and may soon after that (it may be in a fortnight's time or less as to what relates to this Office) be in readiness for the same. We have thought fit humbly to make it known to your Honours; remaining, &c."

Jan. 16. Vice Admiral Callemburg attended the Board, and was discoursed at large about the ports to be touched at in the Mediterranean.

Jan. 16. The Turkey Merchants delivered to the Board another memorial for the proceedings of the convoy with their ships.

Jan 20. Resolved, that Orders be given to the commander of the ships in the Downs, of the Straits Squadron, to sail to Spithead, taking with them the merchant ships that are there, bound to the Straits.

Jan. 29. The King directed that the draft of Instructions for Vice Admiral Rooke should be left with the Earl of Nottingham.

Feb. 10. Sir John Lowther, a member of the Board, signified the King's pleasure, that orders be sent by express to Capt. Robinson to sail with the men of war and merchant ships bound to the Straits, from the Downs to Spithead. Resolved, that Orders be given accordingly, and that Vice Admiral Rooke be furnished with £2000 credit, and that the seamen of the Straits Squadron be paid their short allowance money, as it shall grow due.

Extract of the Instructions to Sir George Rooke, &c. 1693.

No. 765.

Feb. 20. [Here follows an Abstract of the Instructions which are given at length in (*c*) above.]

The following Orders were given to Sir George Rooke, pursuant to the proposals of the Turkey Merchants, delivered to the Board the 16th January.

Feb. 20. "Whereas it has been proposed to the Board by the Turkey Company, that for the better security of their ships which are going to Turkey the following orders may be given unto the commanders of their Majesties' ships which shall be ordered to convoy them; viz^{t}.:—

1. That the squadron may go as high as Calary and the convoys be detached from thence.
2. That the fixed time for their stay at the ports of Scanderoon and Smyrna may be 3 months and ten days longer upon imergent occasions.
3. That the Commanders in Chief of the convoys have a sealed order, to open at the height of Cape Matapan, and not before, directing where the Fleet shall separate and what men of war each division shall consist of, the greatest force to go to Scanderoon.
4. That the Commander in Chief of each division have a sealed order likewise, to be opened in the presence of the other Captain, or Captains of men of war and the first lieutenant of the Chief Ships then in command 10 days before their designed departure from the ports of Scanderoon and Smyrna, in ordering him that commands at Scanderoon, to sail from thence with the merchant ships under his convoy to Smyrna, and not to disclose the same to any other person than aforesaid whatsoever, until they are clear of the port and at sea, directing him also that commands at Smyrna to stay for them, notwithstanding his first order for three months, and not to make it known before their arrival.
5. That being thus recruited, the Commander in Chief may have another sealed order directing the general rendezvous in their return to be at Messina, with instructions what to do when they are there, and this order to be opened in the presence of the other Captains as aforesaid, when they are clear of the port of Smyrna and have been some hours sailed from the castle.

   Lastly. We desire our ships may return from Messina to England under the protection of the whole squadron towards winter.

You are hereby required and directed, when you shall detach some ships of the Squadron under your command to convoy the said Turkey ships, as you are directed by your Instructions, to give orders to the Commander of the said convoy to perform that service, according as is directed in the said proposals of the Turkey Company; for which this shall be your warrant. Dated the 20th Feb. 1692–3.

The following Orders were sent to Sir George Rooke, pursuant to the Resolution of the Cabinet.

Feb. 22 1692. [Same as in (*c*) I. above.]

Feb. 23. [Same as in (*c*) III. above.]

Feb. 23. [Same as in (*c*) III. above (Rear Admiral Aylmer)].

Feb. 22. Resolved, that Orders be given to the Navy Board to complete the victualling of the Straits Squadron to the eight months first ordered them, and that the Commissioners of the Victualling be directed to pay the pursers their necessary money, as also that the men of the said Squadron, that are actually on board, be paid for their

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service on board the said ships, and that what is due to them in former ships be paid to their Attorneys in town.

March 15. Rear-Admiral Aylmer was ordered to come from Torbay to Spithead with the ships under his command, sending only the *Deptford* and *James* Galley to Plymouth with the Bilboa ships.

March 20. Pursuant to his Majesty's pleasure, orders were sent to Sir George Rooke to proceed to the Straits with the first opportunity of wind and weather, according to the instructions received by him from the Board.

March 22. Sir George Rooke was acquainted that the Board had appointed Captain Elwes his Captain, but that since their Majesties' service required his sailing as soon as possible, it was recommended to him to do it, without staying for the *Cambridge's* men being paid, or for the said Capt. Elwes.

March 23. The Earl of Nottingham signified his Majesty's pleasure to the Board, that Orders should be immediately sent for stopping Sir George Rooke till further order, and Orders were sent to him accordingly, by express.

April 11. Upon reading a letter from Sir George Rooke, it was resolved by the Board, that he should be directed to send ships to cruise between Portland and the Isle of Wight, for the better security of the ships at Spithead.

May 12. Sir George was directed to be in constant readiness to put in execution such Orders as should be sent him.

May 12. Mr. Secretary Trenchard signified her Majesty's pleasure to the Board, that Sir Geo. Rooke should be directed to follow such Orders as he should receive from the King or Queen's Majesties, and Orders were sent to him accordingly.

May 19. Orders were sent to the Admirals of the Fleet, pursuant to her Majesty's pleasure, signified by Mr. Secretary Trenchard, to sail in company with the Straits Squadron, so far as they should think it requisite, and to order Sir Geo. Rooke, after parting with him, to steer such course for his passage to Cadiz as should be thought most safe by a Council of War, with relation as well to the Brest fleet, if gone out to sea, as to the Toulon squadron.

May 19, 1693. Orders were sent to Sir Geo. Rooke to sail with the Squadron under his command, in company with the Fleet, so far as the Admirals should direct; and that when he parted with them, he steers such course for his passage to Cadiz as they shall direct, and then proceed according to the Orders he has received from the Board.

May 23. Extract of a letter to the Admirals touching the results of Councils of War, viz^{t}. "It being necessary . . . . . touching the affairs of the Fleet" [same as in (*d*) XIII, (2) above.]

May 30. Extract of another letter about the results of Councils of War [*ib.*].

The Intelligence sent to the Admirals in the Board's letter of the 31st May was as follows:—

May 27. Scilly. That about 30 sail of very large ships were seen the 25 instant, in the morning, S.S.W. from Scilly about 3 leagues distance, and that a Pool man arrived from Virginia was about 3 leagues to windward of them, and said he made the Fleet to be about 150 sail of very large ships. That upon the writing the letter there was in sight 30 sail of stout ships, which were taken to be French looking out for our Canary Fleet.

1693. June 12. Order to the Admirals for sending results of Councils of War.

[Same as in (*d*) XIII (2) above.]

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Extract of a letter to the Admirals.

June 26. We have acknowledged the receipt of all such letters as have come from you to this Board, and as to the Resolutions which have been taken at Councils of War, we have not received more than those which were held the 13th and 23rd inst., and therefore we desire you will let us know what other Councils of War have been held since the Fleet has been at sea, and particularly what Resolutions were taken by yourselves and the Flag Officers in the Fleet for parting with the Straits Squadron, and that you will transmit copies of all to us as soon as may be.

Extract of a letter to the Admirals.

July 4. We have received your letters of the 30th of June and 1st instant, in the former of which you acquaint us, that understanding by ours of the 26th past, we have not received the Resolutions taken at such Councils of War as have been held in the Fleet, you send us the same from the time of your conjunction with the Dutch; but there having probably been some Councils of War called before your said conjunction, we desire you will also transmit to us such Resolutions as were taken at them. And lest you may have heretofore sent us any, and the letters which enclosed them are miscarried, we desire you will let us know the dates of such letters with which you transmitted to us the results of any Councils of War, together with an account how and from whence they were sent; that if any be missing a strict enquiry may be made at the Post Office of the cause thereof.

Orders to the Admirals of the Fleet.

July 11. [Same as in (*d*) XI. above.]
July 18. [Same as in (*d*) XI. above.]

Memorandum: The undermentioned rendezvous was all that the Admirals sent to the Board in their letter of 22 May of the following Council of War:—

In case of separation by bad weather, or any other unavoidable accident, with the wind westerly, and the Fleet to the eastward of Torbay, the place of rendezvous is St. Helens. If with the wind westerly, and we to the westward of the Berry, then Torbay is the place of rendezvous, and if the wind be easterly, then 30 leagues W.S.W. of Ushant is the place of rendezvous.

May 22, 1693. *Result of a Council of War held at St. Helens.*

"Resolved" &c. [See (*f*)[28] below *in extenso.*]

May 30. The Fleet sailed from St. Helens.

June 4. *Result of a Council of War held off Ushant, 30 leagues W.S.W.*

"Upon debate" &c. [See (*f*)[28] below *in extenso.*]

June 8. *Extract of a letter from the Admirals, 10 leagues N.W. of Ushant, touching their parting with Sir George Rooke.*

"The Fleet having proceeded near 50 leagues W.S.W. from Ushant with Sir George Rooke, it being the Resolution of a Council of War

1693. — No. 765. held at sea the 4th inst. for the better security of the Fleet, and having left him the 6th inst. in the evening with little wind, but since having blown hard at S. and S.S.E., we hope that he is out of the way of danger of what might happen to him in these parts."

June 13. *Result of a Council of War* 9 *leagues N.W. of Ushant.*

"Resolved, that we sail for Ushant, and speak with the ships we have sent in there, and in case they bring intelligence that the French Fleet be in Brest and judged not fit to be attacked there, then to proceed forthwith to Torbay. And if they be sailed out of Brest, Resolved to go to Scilly. And if we can gain no intelligence of them, then to go to Torbay.

June 17. *Extract of a letter from the Admirals* 10 *leagues W. from Ushant.*

"Whereas we gave you an account, by a letter of yesterday's date, that the *Warspite* was not come to us, the Captain, with the pilot, who is a French Protestant and very well acquainted with the place, are now come, and acquaint us, that he was so near St. Matthew's point, that Brest bay was open to him and saw neither ships nor other vessels either at an anchor or under sail, except 3 or 4 fisher-boats near Conquet Road. We intend to proceed according to the Resolution of the last Council of War to look for the enemy off Scilly, as the letters received from you seem to signify, and not finding them there, to go for Torbay to take in such provisions as the Fleet stands in need of.

June 22. *Extract of a letter from the Admirals in Torbay, touching Councils of War.*

We received this evening, by the *Diligence* brigantine your Order of the 12th and letter of the 13th; by the first we cannot choose but be surprised, it being a repetition of our sending you the Resolutions of the Councils of War. We are in doubt you do not receive our letters, having omitted no opportunity of giving you an account of all our proceedings, and desire you will acknowledge the receipt of them.

June 25. *Result of a Council of War in Torbay.*

It is the opinion of the Council of War to proceed forthwith to Lisbon, in hopes of joining Sir George Rooke there, but upon examinations of what provisions we had, it was found there was not enough for the Fleet to go so far.

Yet if in case the Fleet can be furnished with ten weeks' provisions at whole allowance in 14 days, that then the whole Fleet proceed without loss of time in order to seek the French Fleet.

It is also the opinion of the Council of War, that all ships of 50 guns and upward be ordered forthwith to join the Fleet, that we may be in a better condition to seek the enemy.

July 1. *Result of Council of War held in Torbay.*

Her Majesty having thought fit that Sir George Rooke should return with part of the men of war under his command for Plymouth in case the French be joined and are come to the northward.

Q. Whether the Fleet shall proceed to Lisbon, according to our first opinion of the 23rd of June, her Majesty's pleasure not appearing to us to be clearly explained, in case the French Fleet should be gone to the southward?

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It is humbly offered to her Majesty's consideration, that in case the French Fleet should be come to the northward, whether it would be advisable to sail to Lisbon and leave the coast of England exposed to the insult of the enemy.

The reason that induced us then to propose going to Lisbon, was to secure Sir George Rooke and the merchantmen, and to sail with them further, or to bring them home, as it should be judged fit; but Sir George Rooke being ordered home, it is very uncertain our meeting with him, and therefore desire Her Majesty's further commands.

It is the opinion of the Council of War, that Her Majesty's Orders to Sir George Rooke were so full, that there was no occasion for our giving him any further advice.

July 9 1693. *Result of a Council of War held in Torbay.*

Upon considering at a Council of War, what station is most proper for the Fleet to go to, in order to intercept the enemy in their return home; Resolved, That, as soon as wind and weather will permit, the Fleet put to sea and proceed 40 leagues S.W. from Ushant, and then to consider at a Council of War, whether to remain on that station, or proceed to some other. In case of separation when we are clear of the Channel, the place of rendezvous is 40 leagues S.W. from Ushant; if before we are clear of the Channel, and the wind be westerly, Torbay.

July 14.—*Result of Council of War held in Torbay.*

"In answer" &c. [*See* under date in (*f*) [28] below, *in extenso.*]

Aug. 17.—*Extract of a Letter from the Admirals of the Fleet in Torbay.*

"As to your order . . . . . execution of your orders." [*See* under date in (*d*) XI. above.] *Dated* Aug. 21, 1693.

Endorsed: "Received from my Lord Falkland, Aug. 31, 1693." *Numbered* No. 11.

(*f*) [19]. Examination of Captain Martin before the Committee of the Council on 31 Aug. 1693, as follows:—

He says the Turkey fleet, under the command of Sir George Rooke, did not make the Rock of Lisbon in their way to Cadiz, and that they were not nearer to it than 30 leagues, Sir George Rooke having avoided the Northern Cape, apprehending the French Fleet might be there.

Capt. Martin says he was present at the examination of the French captain of the fireship, and that the other officers that were then present are all of them now in the Fleet. That Capt. Fairbern, Capt. Gardiner and others were present, and he believes Col. Hobsen and Capt. Norris.

The French captain of the fireship was examined in French, and Capt. Fairbern examined him upon some questions.

That Sir George Rooke did never persuade himself that Mons. Tourville was at Lagos, and the captain of the fireship naming more ships to be there than those who were examined after him, and the enemy burning some of their own ships, persuaded Sir George Rooke that the French Fleet was not there.

Mons. Vandergoes was not present at the examination.

The examination was not taken in writing nor any heads of it.

Sir George Rooke took Capt. Fairbern with him to give Vandergoes an account of the examination of the French captain of the fireship.

The Portuguese men that came on board Sir George Rooke in a fruit-boat contradicted each other, one of them saying the French had been

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in Lagos Bay eight days, the other said they had been there 20 days. They both said there were but two Flags. They said there were about 120 ships. This persuaded Sir Geo. Rooke that what they said was an artifice of theirs.

Sir George Rooke's bearing for Cadiz was in pursuance of the Resolutions of a Council of War, held before the intelligence received from the French captain of the fireship and from the Portuguese fruit-boat.

Sir George Rooke knew not that there were two Moors on board the French ships till after all was over.

The French fireship had 24 men belonging to her; but many of them with the lieutenant had been on shore, which caused her to stay so long behind as to be taken.

Captain Martin knows not of any resolution to make the coast of Barbary, but he has heard since his coming hither there was such a resolution.

And if Sir George Rooke had stood that course he had not thereby avoided the French, for their scouts went to the Straits' mouth. When they went out of the Channel they did not know the French Fleet was gone out of Brest.

Capt. Martin knows nothing of any instructions for the avoiding of Tourville.

They sent no scouts into Lisbon, and the Dutch convoy with Setuval ships, having left the fleet but six days before they made the Cape St. Vincent, did not come back to them time enough to bring them any intelligence from thence.

Capt. Martin examined the captain of the French fire ship, by Sir George Rooke's orders; and Capt. Fairbern asked *him some* questions.

Captain Martin being told that some of the merchant ships had made the Rock of Lisbon, says that the day before the Dutch Setuval fleet left Sir Geo. Rooke, the captain of the ship and the seamen told him, Capt. Martin, they were about 30 leagues from the Rock of Lisbon.

He says he never heard of a Portuguese ship that met Sir George Rooke's Fleet half way between Cape St. Vincent and the heighth of Lisbon.

He says, positively, the Moors in the French fireship were not examined till all was over.

That none were examined by order of Sir George Rooke, but by Capt. Martin and Capt. Fairbern, and that Capt. Fairbern went on board the fireship to examine the rest of the officers, the captain and lieutenant being examined on board Sir George Rooke.

That Capt. Fairbern making his report to Sir Geo. Rooke of the examinations he had taken on board the fireship, Capt. Martin who was present when he made this report did not hear him make any mention of the two Moors, wherefore he believes they were not examined by Capt. Fairbern.

Capt. Martin says he knows Sir George Rooke was on board the Admiral on the 4th of June, but he knows not whether he was at a Council of War then held.

Capt. Martin says the French captain was not examined on board the *Lark* frigate coming home, nor does he remember that he said that Lucenay had told them truth, but they took him for an old fox and did not believe.

Capt. Martin says, the Portuguese fruit-boat came on board Sir Geo. Rooke the 17th of June, between eight and nine in the morning, some few hours after the taking of the fireship.

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That the French captain was brought on board Sir George Rooke about five in the same morning, and that the fireship was taken about 3 or 4 that morning.

That Capt. Fairbern was sent on board the French fireship within an hour after the captain and lieutenant had been examined on board Sir George Rooke.

That Capt. Fairbern was sent to examine the master, mate and gunner, and, as he thinks, what other officers he should think fit.

That the Portuguese boat came on board at least two hours after the captain and lieutenant were examined.

That there was not any Council of War held after taking the examination, and that the examinations were not taken in writing.

Numbered No. 12.

(f)[20]. Sept. 7. Letter, from Sir George Rooke to the Lords of the Council, as follows :—

My Lords, Neptune, at St. Helens, This day.

In obedience to your Lordships' commands of the 1st inst., I do herewith most humbly offer to your Lordships a just and particular account of my proceedings from the 20th of May last to the time of my arrival in Ireland, as also the copies of all such Orders as I have received from the Admiralty or the Admirals of the Fleet, tending to the prosecution of my voyage, which I hope will satisfy your Lordships that I have not acted in the least circumstance contrary to them, or inconsistent with the rules and discipline of war, which being all I have to add, I do remain with great honour and respect,

My Lords, your Lordships most obedient and most humble servant,

G. Rooke.

Endorsed in Mr. Bridgeman's hand : "Read Sept. 9." *Numbered* No 13.

(f)[21]. Sir George Rooke's account of his proceedings from the 20th of May to his arrival in Ireland, as follows :—

"On Saturday, the 20th of May, 1693, I received an Order from the Right Hon. the Lords Commissioners of the Admiralty to sail with the Squadron of their Majesties' ships under my command, together with the merchant ships bound to the Mediterranean in company with the Main Fleet then at St. Helens, and at our parting with them, to steer such course in my passage to Cadiz as the joint Admirals should direct.

On Monday, the 22nd, was a Council of War of Flag-Officers called aboard the *Britannia*, about the Fleet's sailing, places of rendezvous, etc., where it was resolved the Fleet should sail on the 24th if the wind presented fair; that they should accompany the Straits Squadron and the fleet of merchantmen into the sea W.S.W. 30 leagues from Ushant, and (to the best of my remembrance) if the French Fleet were sailed from Brest, to advise further what measures to take, and in case of bad weather, signals were agreed on and appointed for our parting with the Fleet.

On Tuesday, the 30th of May, the Fleet sailed from St. Helens and Spithead with a fair wind, and on Sunday, the 4th of June, about six o'clock in the morning, being W. and by S. about 30 leagues from Ushant, the joint Admirals put aboard the signal for the Fleet's parting, which was answered by us; but proving little wind afterwards, I went on board them, to inquire what intelligence they had got from Brest, and what they knew of the French Fleet there, but I could not learn there

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had been any ships sent in our passing by, to make a discovery of the place.

The Admirals called a Council of Flag-Officers, where it was resolved the Fleet should see us 20 leagues farther into sea, and on Tuesday, the 6th, at night we lost sight of them, and from that time till the day we met the enemy's scouts we saw but one Dutch ship, who came from the Tarceros bound for Amsterdam.

I can't give your Lordships a truer account of this unhappy service than by a copy of my letter to the Commissioners of the Admiralty, as also of the result of the Council of War.

Royal Oak. 78 leagues S.W. and by W. off of
Right Honble. Cape St. Vincent, June 21, 1693.

I send Capt Martin in the *Lark* with this to give your Lordships an account of the unfortunate success of our voyage. On the 15th inst., being about 60 leagues short of Cape St. Vincent, I ordered the *Lark* to go ahead of our scouts into Lagos Bay, to get what intelligence he could of the enemy, but he hauling in nearer the shore in the night than the Fleet, did lay becalmed, and the next day in the morning our scouts discovered two of the enemy's scouts, to whom they gave chase, and a little after noon the *Chatham* came up with one of them, being a ship of 70 guns, whom she engaged a little while, but seeing 8 or 10 sail more under the Cape, she left her, to give me an account what she had discovered; on which I immediately called a Council of the other two Flag Officers, where it was proposed to keep our wind, or lay by all night, and make a further discovery of the enemy's strength in the morning. but this was overruled, it being urged that the wind was fresh northerly, and gave us a fair opportunity of pushing our passage *to Cadiz*; but being jealous this resolution might prove pernicious to the Service in the execution, by drawing us into a greater force of the enemy than we should be able to disengage ourselves from, before the paper was signed, I called for six or seven of the captains [In margin: Pickard, Fairberne, Myngs, Gardner, Simcock, Mister, Scryver.] that happened to be aboard, and asked their opinions, who all concurred in what had been before resolved; so that all night we ran along shore with a press sail, and forced several of the enemy's ships of war to cut from their anchors in Lagos Bay. At break of day in the morning, being off of Villa Nova, it fell calm; we saw about 10 sail of the enemy's ships of war and some other small ships with them in the offing. The men of war towed away with their boats ahead, setting fire to some and deserting others of their small vessels, which we took with our boats, and in one of them was a train of powder laid that blew up near 20 of our men; besides which, we took one of their fireships, that fell in among us as they cut out of Lagos Bay in the night. The prisoners we took in her informed us that the squadron consisted but of 15 ships of the line of battle, with which were three Flags, the Marishal Tourville, Monsr. Villett and Mons. Lemon, that they had 40 odd sail of store ships and merchantmen with them, that they were bound to Toulon, or to meet Mons. D'Estrees, that they had been becalmed off the Cape, and had watered their ships in Lagos Bay and were bound directly into the Straits, without any intention of meeting or seeing us, which, with the precipitate retreat of their men of war in the morning, their deserting and burning their small vessels, gained so perfect a belief with us, that we were hardly to be undeceived when we saw the contrary.

At noon the sea-breeze sprung up at W.N.W. and N.W., with which we bore away along shore upon the enemy, and the nearer we came to them the more ships we discovered, to the number of about 80 sail. The

line they plied up to us with was not above 16 or 17 sail, with three Flags, the Admiral and Vice-Admiral of the Blue and the Rear-Admiral of the White. The Vice-Admiral of the White stood off to sea with five ships to weather us and fall in among the merchantmen.

The body of their fleet lay promiscuously to leeward of one another, as far as we could see them, and the greatest ships, except some few, lay further to leeward. At three o'clock in the afternoon, being within four miles of the enemy, Vice-Admiral Vandergoes brought to, and sent his Lieutenant to tell me we were cheated; that we might perfectly discover there was the enemy's whole fleet, and that it was his opinion we should avoid engaging them, if it were possible; that he was afraid we might lose a great many of the merchant ships; but by an engagement there would be a certain loss of the whole.

I did believe we were too near to think of a retreat, and had resolved to sacrifice myself and the Fleet at as dear a rate as I could, but I feared this message might leave an infamy upon my memory, in that I had engaged and lost the Fleet contrary to the opinion and advice of a Flag-Officer. Upon which I brought too, and stood off with an easy sail, to give what time I could to the Dutch and other heavy sailers to work away to windward, sending the *Sheerness* to order the small ships that were under the shore, and thought they could not keep up with the Fleet, that they should endeavour to get along shore in the night into Faroe, St. Lucar or Cadiz. The Admiral and Vice-Admiral of the Blue, with 8 or 10 sail more, fetching very fast upon us, I was forced to make sail; and about 6 o'clock in the evening the enemy's weathermost ships came up with the leeward and sternmost of ours, which were two or three Dutch men of war, and some of their merchant ships, who, soon after they were engaged, tacked and stood for the shore and the enemy after them, which gave a favourable opportunity to the ships to windward and ahead to make sail off. We stood off all night with a press sail and a fresh gale of wind at N.N.W., and on Sunday morning we saw 54 sail of merchant ships and men of war about us, of the latter but two Dutch and one Hamburger, and 5 sail of the enemy's ships to leeward, and 2 to windward of us, who, when they saw we had lost sight of their fleet, tacked from us but dogged us all day.

A Monday afternoon I called the officers of the men of war and merchant ships aboard, to enquire what account they could give of the rest of the fleet, and to advise what was to be done for the security of the remainder. Many of them assured me they saw 40 or 50 sail of our fleet bear away to the Southward about 10 o'clock on Saturday night, among whom was the *Monk*, a Dutch man of war of 50 guns, the *Chandoise*, *Asia*, and several other large ships; who I have great hopes are very safe, because I was the leewardmost ship of our fleet a Sunday morning, and could see no ships to leeward of me, but the five ships of the enemy, who, when they left us, stood away towards Cadiz. I found but one of the masters of the merchantmen for looking toward the Straits mouth again; the rest were some inclinable for Lisbon, others for the Groyne; but most, as the more secure course, was for Ireland, so that I desire your Lordships' Orders for my further proceeding may meet me at Cork or Kinsale. If the winds continue northerly, we shall be forced to go for the Maderos for water. I am very sorry to give your Lordships this dismal account, but it is much better than I expected it could have been a Saturday afternoon.

The enemy with great cunning drew us into this misfortune, and had they prosecuted it with as much resolution, we had not a ship of us escaped; for the Admiral and Vice-Admiral of the Blue were within

1693. shot of me when they tacked after the Dutch, and it was their tacking saved the rest of the fleet.

No. 765. I do refer your Lordships to Capt. Martin for anything we have discovered of the enemy by the prisoners, since we got from them, and with great respect remain, Right Honble.

Your Lordships most humble servant,
G. Rooke.

At a Council of War held on board their Majesties' ship the *Royal Oak*, the 16th of June, 1693.

Present :

The Right Hon. Sir George Rooke, Knt., Admiral.
The Heer P. Vandergoes, Vice-Admiral.
Col. Thomas Hopson, Rear-Admiral.

Upon notice from our scouts of the enemy's being near us, and debate held what conduct was fittest to be used in order to the service of the Allies; Resolved, Since the wind is northerly and a fresh *gale, to* take the advantage of it and stand our course for Cadiz, so as to avoid fighting if possible; but if it so happen that it shall not be in our power to decline engaging, that then we push our way through them in the best manner we shall be able, having regard to keep the men of war in such order as may most contribute to the security of the merchantmen.

G. Rooke. P. Vandergoes.
Tho. Hopson.

To which I do not think it improper to mention some of *the debates* and reasons that induced us to this Resolution. It was offered, that one of our scouts having engaged one of the enemy's, and discovered some other ships under the Cape, we might conclude a squadron of the French Fleet was to leeward, that being in that station, we might suppose their business was to look for and intercept us, and that we might reasonably apprehend they were a sufficient force to prosecute their ends; that our Fleet being of so great a concern and consequence to both our nations, we should use our endeavours to avoid them if possible, for that the miscarriage of the charge under our care would not only be very sensible to our own countries but the whole alliance.

To this it was objected, that it was not reasonable to stand off and avoid them without a further discovery of their strength, for if we would shun every eight or ten ships we saw, we should never be able to prosecute the voyage; that it might very probably be only that a squadron of 15 or 16 ships, that was said to be sailed from Brest with Mons. Gabarett, a little before we left Spithead, and that perhaps they might not yet have joined the Toulon squadron; that then we should not only secure the merchant-ships into their port of business, but disappoint and affront the enemy in their designs upon us, and possibly give such life and reputation to our affairs in the beginning, as might render the success of the whole voyage easier to us; that the wind, being then fresh northerly, gave us a fair opportunity of pushing our passage to Cadiz. Though this resolution did not square with my sense, yet it being so well corroborated by the concurrence and opinion of the major part of the Captains of the Fleet, I had no reason to oppose it.

But had we been so happy to have known the French Fleet had been sailed from Brest, there had been no room for these arguments, for then wheresoever we had discovered the enemy's scouts we should reasonably have concluded their fleet to have been also.

And had we lay by all night, as was proposed, and stood in again next day to have made a further discovery of the enemy, I do believe the consequence might have proved as fatal as it has been; for as the enemy had posted their fleet, it had been impossible for our scouts to have made any discovery of their strength, and if we had stood so near to make them with our fleet, I do not think we could possibly have cleared ourselves of them on easier terms than we have done.

And if we had made sail off, and avoided them without any further discovery, and this had been only Mons. Gabarett's squadron, and that they had not joined Mons. D'Estrees, and that they should afterwards have joined and unhappily intercepted us in our passage, what reflections would have been made then and with what reason, I do refer to all ingenious and impartial judgments.

The Captain of the French fireship has owned they took us for our Grand Fleet, and that they cut from their anchors in Lagos Bay under all the consternation imaginable. But some of the Hamburg convoys made sail ahead of our fleet in the night, and fell in among the enemy's ships in the morning, and I am afraid they gave them better intelligence of our strength than we got from the prisoners we took of theirs.

Upon the Captain and the Lieutenant of the fireship coming aboard me, I found they were obstinate in making any confession relating to the number and strength of their fleet; so that I ordered Capt. Fairborne and Capt. Gardner to go aboard her and try what they could gather from the under officers and seamen, by one of whom Capt. Fairborne was so much deceived in the simplicity and sincerity, as he thought, of the fellow's answers, that he gave him a crown for his intelligence, and returned aboard to me with the account I have mentioned in my letter; but I, not being so very well satisfied with the truth of this information, sent for some of the prisoners aboard, and desired Capt. Martin to examine them apart; who did so, and what they said differed very little from the former; but there were two Moors aboard her, that had been taken some little time before in a Sally man of war, which if I or the gentlemen I sent to examine the prisoners had been advised of, the promise of good usage, liberty or the like would have prevailed on them to have told truth, and what we might have depended upon as such; but I did not hear of these persons till two days after our misfortune.

About 8 o'clock in the morning, a Portuguese bum-boat came off from Villa Nova, with two poor wretches in her. They pretended to give me an account of the enemy, but it was so incoherent with, and contradictory to one another, and such impossibilities in the whole, that it was rejected as fabulous, not only in mine, but in every ship they were aboard of; and the poor men, instead of the reward they expected and deserved, were hooted at from ship to ship, and treated as notorious and common liars.

At about 10 o'clock in the morning, Rear-Admiral Hopson, Capt. Fairborne and myself went aboard Vice-Admiral Vandergoes, who had taken one of the enemy's Gabarrs, to whom I imparted what I had learned from the prisoners, &c. We were all very well pleased with our little success, and under great hopes and some assurance of improving it to a considerable advantage; insomuch that we determined to see the merchant ships safe into Cadiz, and follow the enemy as far as the Straits' mouth. And if there had been any officers in the Fleet that had suspected the deceit, they were wanting in their duty to the Service and their friendship to me in not advising me of it; for though

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the result of the Council of War was to push our passage to Cadiz, yet I do presume a reasonable suggestion that the enemy's fleet had been between us and the port would have given a just occasion of taking other advice and other measures; but I do verily believe the working of the enemy's ships in the morning and the false information of the prisoners passed a general deceit upon us.

I am sure I was not in any suspicion of them till I came very near; the number did not surprise me till I could discover the quality of their ships, and when we brought to, some of them were so far to leeward that I never saw more than five of their Flags. The Admiral and their three white and blue Flags I could not discern.

When the breeze of wind came that we bore away, I sent to Rear-Admiral Hopson to order the *Smyrna Factor* to keep with the merchant ships within us, and as we engaged off, to bear away along shore as he should see opportunity.

A little before Vice-Admiral Vandergoes' Lieutenant came to me, I concluded it was the enemy's whole fleet, but did at the same time believe it was too late to retreat with any manner of security to the merchant ships. I therefore resolved to make it my endeavour to secure them, though I myself might fall a sacrifice for their safety; but upon a second consideration I thought the Vice-Admiral's message would have rendered me inexcusable to the world, and left an eternal infamy upon me.

I had no time to advise and very little to consider, for if we had not brought to, as we did, we must have been engaged in less than a quarter of an hour; and as the ships we had fought with had disabled us, fresh ones would have wrought up to have completed our ruin; and the five ships that stood off would have weathered us, fallen in among the merchantmen and made what havoc they had pleased with them: so that I do verily believe if we had engaged, the whole Fleet had been taken and destroyed that night.

As soon as I resolved to decline engaging, I set my foresail and took in my signal for the line of battle, and sent the *Chatham* to Rear-Admiral Hopson to acquaint him with the message I had received from the Vice-Admiral, and that I intended to stand off with a press sail all night; that if he had opportunity, he should order the *Newcastle* to take the *Chandoise*, who was one of the heaviest sailers and richest ships, in a tow. I also ordered the *Sheerness* to tack, and tell as many of the small vessels as he could speak with, that in case they could not hold it up with the Fleet, they should shift for themselves along shore in the night, and get into Faroe, St. Lucar, &c. And if I could have been understood to have dispensed the same orders to the Dutch and Hamburg ships as I did to the English, I do not doubt but they had escaped as well, excepting those that the enemy engaged; and it was impossible they could acquit themselves better than they did. The five ships of the enemy that stood off when we brought to, though they could have weathered us, lasked away to leeward and fell in among the weathermost of their fleet, and were some of them that engaged our leewardmost ships.

It was very lucky that the Dutch, soon after they were engaged, tacked and stood for the shore, and if they intended the service by it, it was one of the best judged things I ever saw in action; for the Admiral and Vice-Admiral of the Blue and most of the enemy's weathermost ships tacked after them; whereas had they, as in discipline and seamanship they ought to have done, pressed up with the body of our men of war, sailing so much better than we did, they had cut us

a-pieces to all the disadvantage imaginable, for by taking the lee-gage, they could have carried out all their weather guns; when none of our ships but mine and the *Bredah* could have used any of their lower tier to leeward; or had they kept us company all night at a reasonable distance, they might in all probability have ruined our whole Fleet next day. But as never any design was better laid than this was by the Marechall Tourville for our destruction, so never any service was worse executed than this was by his under Flag-Officers. And since the enemy wrought as they did, if the rest of our fleet had been so fortunate to have stood off all night with us, our loss had been very inconsiderable; though I cannot blame the conduct of them that bore away, for the two ships of the enemy that lay to leeward of us making false fires every half hour, was a sufficient ground for them to conclude their fleet followed us, and that they would be in among us in the morning; but those two ships, as soon as they saw we had lost sight of their fleet on Sunday morning, tacked and would have cut off three or four of the sternmost of our ships, but I bore away upon them and put them to leeward and tacked after them, to see if I could discover any more to the eastward, that might fall into their hands, till Vice-Admiral Vandergoes sent Capt. Stilte to me to acquaint me it was his opinion we should make the best of our way to the westward, for that those ships would endeavour to draw us in sight of their fleet again, and that it might prove very fatal to us; in which I could not but concur with him, in regard their ships sailed so much better than ours did; so that we stood off with a press sail all that day and night, and the next day till afternoon. I called the Flag Officers and the captains of the men of war and the masters of the merchantmen aboard for their advice what measures were fittest to be taken for the service, since our passage to Cadiz and the Straits' mouth was blocked up; where it was resolved to proceed as I have mentioned in my letter.

At a Council of War held on board their Majesties' ship *Royal Oak* at sea, the 19th June, 1693.

Present:

The Hon. Sir George Rooke, Knt., Admiral.
The Heer P. Vandergoes, Vice-Admiral.
Col. Tho. Hopson, Rear Admiral.

Upon consideration that the French Fleet lies before Cadiz, and in all probability will render our passage into the Straits very difficult and hazardous; it is Resolved, that the best way to secure us from falling with them again, is, while the wind continues northerly, to stand off to the westward into the sea, and in case it does not shift before we get the length of Madeira, that we supply ourselves with water at that island, and with the first shift of the wind, to make the best of our way to Cork or Kinsale in Ireland.

G. Rooke.
P. Vandergoes.
Tho. Hopson.

We did not come within 30 or 26 leagues at least of the Rock of Lisbon, which was nearer than I intended, as apprehending that to be as likely a station to fall with the enemy as where I met them, and my orders being directly for Cadiz, I thought I could not justify myself, in case of any misfortune, by hauling in for the shore, till I needs must, in order to my gaining my passage thither. I had reference to my orders, in my proceeding from Cadiz, to such advice and intelli-

1693. — No. 765. gence as I could get of the motion and strength of the enemy in the Mediterranean, but to Cadiz I do take them to be positive.

On Saturday, the 24th of June, we came to an anchor in Fonciaell Road, and applied ourselves with all diligence to the watering our ships, which we effected by Tuesday morning, when we weighed in order to the making the best of our way to the coast of Ireland. This day the *Monck* came into the Fleet and joined us, a copy of whose account of his proceeding after parting with us, I do herewith send your Lordships. [*See* (16) below.]

On Friday the 30th, discovering a ship to the northward of us, I sent the *Chatham* to give her chase, who brought her into the Fleet, she being a French ship bound from Rochelle to Martineco.

On Tuesday the 9th of July we made the island of St. Michaells, whither I sent the *Woolwich* to inquire if she could get intelligence of any of our dispersed ships.

On Thursday the 20th the *Monmouth*, being upon the scout, ahead of the fleet, met with and took a French ship bound to Rochelle from the West Indies.

On Friday the 28th we made the coast of Ireland, and the next day, after seeing the merchant ships safe into Kinsale, and appointing the *Princess Ann* and the *Loyal Merchant* to accompany them, I bore away with the rest of the Fleet for Cork as the most commodious port for our reception.

Neptune at St. Helens, G. ROOKE.
September the 7th, 1693.

Endorsed in Mr. Bridgeman's hand : "Received Sept. 9th and read at the Committee the 14th, 1693." *Numbered* No. 14.

(*f*)[22]. Copies of Orders to Sir George Rooke from the Lords of the Admiralty and the Admirals of the Fleet, vizt., (1) 7 Orders, dated Feb. 20 and 22, March 7, 16, 18 and 23, and 19 May, 1693, which appear in (*c*) above, and (2) 2 Orders from the Admirals of the Fleet, vizt. :—

22 May. In case of separation by bad weather, or any other unavoidable accident, with the wind westerly and the Fleet to the eastward of Torbay, the place of rendezvous is St. Helens. If with the wind westerly, and we to the westward of Berry Head, then Torbay is the place of rendezvous ; and if the wind be easterly, then 30 leagues W.S.W. of Ushant is the place appointed for the rendezvous. *Signed* H. Killigrew, R. Delaval, Cloud. Shovel.

26 May. By virtue of an Order from the Right Hon. the Commissioners of the Admiralty, you are hereby directed and required to sail with the Squadron of their Majesties' ships under your command, together with the merchant ships under your convoy, in company of the Grand Fleet, till it arrives at the place of rendezvous 30 leagues W.S.W. of Ushant, where you are to expect the signal agreed on at a Council of War, in order to your proceeding on your voyage. *Signed* as preceding. By command of the Admiral, Abr. Anselme.

Endorsed in Mr. Bridgeman's hand : "Received Sept. 9, 1693." *Numbered* No. 15.

(*f*)[23]. June 27. Copy of Capt. Fairborne's Account, received from Sir George Rooke, as follows :—

"Sir,

I would never have left you, if I could have kept you company, but you are sensible that on Saturday night, the 17th of June, it was dark, and before that you outbore me in carrying of sail, so that by Sunday

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morning I had lost sight not only of you but of all our fleet, seeing nothing, as I thought, but ships of the enemy at some distance from me, both ahead and to windward of me, and two, I was sure, were the enemy, being the same ships that kept you company till it was dark the night before, and that constantly made false fires from one to the other. These ships were at break of day about two miles ahead of me. If they had tacked, they must have weathered me. I altered my ship what I could to deceive them, by putting up white Vanes, &c. Then tacked with my head to the Eastward, and lay by to look about me, as one of their company, but in half an hour I bore away S.E. with all the sail I could make. Those to leeward took no notice to follow me, but four or five great ships to windward from the land did bear after me for about an hour; then they brought to again with their heads to the westward, or without doubt they would have fetched me up. I steered away afterwards S.S.E., S. and S.W., till I had lost sight of them, and judging that these courses might bring me in sight of you or some of our fleet, all along imagining that after your steering to the Southward you would make your way to the westward. Having steered away as before till four o'clock in the afternoon, and seeing nothing, I began to think I might be shot ahead of you, so tacked and stood in again to the Eastward; but at sunset my course that way was stopt, for I saw from my deck 13 ships, with very square sails, seeming to stand thwart my fore foot, and stretching it from the N.N.W. to the S.S.E., as if they designed for the Barbary coast, whilst two or three others lay by with their heads to the westward. I considered my ship was very foul, and did really take these for ships of the enemy, therefore stood no nearer to make them. When it was dark, I tacked again and steered away W. and by S., and so continued keeping by a wind, till Thursday the 22nd of this inst. at noon, by which time I had made six degrees meridian distance from Cape St. Maries, and found myself in the latitude of 34d. 10m., the wind blowing then very fresh at N.N.E. I thought it might be reasonable enough to imagine that some of our ships might be borne up to the island of Madeira, which made me then bear away for it, believing I might be of some service to them by joining them. Friday morning we were up with the island Porto Santo; when I was making what sail I could to get about the deserters; we see 18 ships at noon just then got in with the island. I was not certain but that they might be a squadron of French men of war bore that way; either going to the West Indies, or looking after some of us. I did not think it safe nor any way answerable for the reasons I gave before as being foul, to come nearer to them; so I sprung my luff and resolved to get to the westward of the Island, to gain intelligence, and was very glad the next day, being Saturday the 24th, at noon to hear from the shore, a town called Caletta, that there were three men of war, with 30 sail of ships, arrived at Fouchiall. You may be assured I made immediate enquiry after you, but they could give me no account of any Flag or what officers commanded the ships there; so I resolved to water till I could hear from Fonciall, which could not be allowed till orders from the Chief Governor of the Island; which was the reason, besides the hopes of hearing some news of you, that made me write to the Consul in the meantime, till I had the favour of your letter, which I received Monday morning at 10 o'clock, with a great deal of joy. It was calm, that I could not get a cable's length from that place. As soon as the breeze sprung up, I got under sail, and have since made it my endeavour to join you. The ship in company with us, I spoke with all last night, is six weeks from New York, laden

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Dear Sir,

Your most affectionate and obedient Servant,

Signed S. Fairborne.

Dated Monck, off Fonciall, this day.

Noted—A copy. G. Rooke.

Endorsed in Mr. Bridgeman's hand: "Received Sept. 9, '93." *Numbered* No. 16.

(f)[24]. Letter from Peters and Vaughan to Mr. George Boddington, as follows:—

On board the *Asia*, in Gibraltar Bay, 20 June, 1693.

Mr. George Boddington.

Sir,—The 30th past, about 11 o'clock in the morning, the Royal Fleet weighed anchor and sailed from Spithead, under whose convoy ourselves and the several merchantmen bound to several ports also sailed; the wind fair at E.N.E., handsome weather. About 9 in the evening, the whole fleet had got the length of the Needles, off of which place were anchored Capt. Barrett of the *Berkeley Castle* and four or five small English ships more, to stop a tide, with whom we spoke; they wanted five weeks from the Straits' mouth, touched at no port by the way from Alicante and all along, nor saw none of the enemy.

31st.—At four in the morning, the wind at N.N.E., passed by Portland Road; about noon the wind was westerly, continued so all day, a small gale only.

June 1st.—About nine in the morning, the wind at N.N.W., handsome weather, we had the length of the Start. At noon having reached off Plymouth, that day towards the evening all the ships that were there came out and joined us, and all night the wind proved from the N.N.W. to N.N.E., good weather.

2nd.—About 8 this morning, being off of Falmouth, fair weather, the wind at N., all the merchantmen that were in this port came out and joined us, and then we judge the whole fleet together consisted of juxta 500 sail.

3rd.—Nothing remarkable.

4th.—This morning the General made the signal for leaving us, by the hoisting up a blue flag at fore topmast head, and firing of 5 guns, which being answered by Sir G. Rooke, we thus parted, and yesterday the East and West Indiamen, &c. left us; from thence to the

7th.—The Royal Fleet having wholly left us, Sir G. R. hoisted his Union flag at main topmast head, the winds having proved small and contrary since the 4th instant.

11th.—About 12 o'clock last night the wind came up very fresh and fair at N.W., and continued so, the 12th, 13th, 14th, and 15th, when at 8 o'clock this morning, we had the length of the Burlings. At noon, by observation, we had the latitude of 39.40, the wind fair at N.N.W. and handsome weather.

16th.—This morning at 8 from top masthead we made Cape Roxent, bearing N.E. by E. distant about 18 leagues; at noon, being in latitude of 37.41, we hauled in for the shore; in the afternoon the *Chatham* and three or four other scouts of ours made the signals for more ships than our fleet, and at 3 o'clock Sir G. R. lay by for the sternmost ships to come up. About 6 o'clock the *Lark*, *Chatham* and scouts gave the Flag an account of what they had seen, and our men at top masthead

saw 5 sail great ships, and from that time guns went off all night between whiles from the enemy's scouts to give their fleet notice. Our Flag and all the fleet lay by till 8, and then bore away with a fresh gale at N. by W. About 10 o'clock we were about Cape St. Vincent, hauling in close upon a wind, of which being but little all night.

17th.—Between 3 and 4 this morning, very little wind, we passed by several great buoys, fair into Lagos Bay, out of which place the enemy cut loose, and a little after 4 o'clock one of their fireships having a great many men ashore, and for that reason lagging behind, our Admiral firing some chase guns at her, and being pursued by the *Lark* together with the Brigantine, Captain Peacock, she presently struck to the *Lark*. Some time after, the writer, J. P., went on board said prize, where found Capt. Fairborne examining several of the ordinary prisoners (for the captain and chief officers were carried aboard by Sir G. Rooke). J. P. examined also several himself, one by one, who told him that they had in their fleet Messrs. Tourville, Nessmond and Gabarett, with about 50 or 60 sail, merchantmen, store ships and victuallers, which, as said prisoners told him, the aforesaid commanders were convoying to Marseilles and Toulon, having, as some said, but 12, others 15, others 16 or 17, and one, 25 men of war, all of them small ships; all which, put together, proved but a very imperfect account; which is not to be attributed to the ignorance of the French marines, but to their cunning and faithfulness to their country, to encourage us to pursue their seemingly flying fleet. Within half an hour after, our boats pursuing a great French Fly boat, the men forsook her and betook themselves to their boats. The *Monck* and *Monmouth's* boats adventured aboard, thinking to put out the fire and to get purchase; but she presently blew up, and we presume the men most of them perished, for she sank in a moment. A little after 5 o'clock two more of the enemy's ships that were laggers astern, were set on fire by themselves, the men going aboard two of their great ships that were within less than 3 miles of us, being calm and viewing us, so that made our strength all this while, whilst in the mean time all the rest of their men of war and fleet lay S.E. of us as far as could see them. The prisoners also told him that they came out of Brest some days one after another, that is, in several squadrons, the first whereof, which was Gabarett's, was 22nd (?) May O.S., the rest within three or four days after. At 9 o'clock a small sea breeze sprang up, and two more of the enemy's ships were fired by themselves, the men whereof also ran aboard the aforesaid two great men of war, who after that, made all the sail they could from us to join their fleet, making but little sail to receive them; which by the sequel you will readily judge, they did all on purpose to decoy us and draw our fleet after them; which [as] all our Flags and men were very imprudently doing, we were constrained to follow them. At 10 o'clock it was a handsome gale, and about noon off of Cape St. Maries, having us into a line of battle (our ships being one and five or six more of the Turkey ships) our whole strength was immediately discovered, being by 2 o'clock pretty near them, for they then stayed to leeward for our coming down so to them; but all this while we could not have any manner of certain information of theirs. But by 3 in the afternoon Sir G. R. and every one of us discovered easily that they were very much superior to us, they composing a line of 26 stout men of war, whereof we are very certain, being so near, 4 or 5 at least were ships of three decks, and about 14 or 15 of them were ships from 70 guns upwards; the rest could not be less than ships of 50 guns

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to 60. In fine, they were all great ships; besides, we could perceive that several others of their ships were plying to windward from their fleets of merchantmen, store ships and victuallers, who stood in with the shore (for altogether they made above 120 sail), which we had a great deal of reason to fear were also men of war. They had an Admiral and Vice Admiral of the Blue, and three cornetts or Rear-Admirals with swallow-tail white flags, so that conjecture they had the greatest part of their strength from Brest. Thus being so much over-matched (all our merchantmen out of the line kept fair in with the shore to windward of us), Sir G. R. and all of the line hauled close up on a wind, which was then at N.W., and stood off W.S.W. starboard tacks aboard; the Dutch leading the van, Sir G. R. this Division in the middle, and Rear-Admiral Hobson, with his, bringing up the rear, thus jogging on a little while, the French to leeward of us appearing very formidable, our three Flags between 5 and 6 had taken in their line of battle signals, crowding away, and three or four of the Dutch, whereof one a man of war, not being able to hold their wind as we held ours, were something to leeward; so that the fury of a great green quartered French man of war and their Admiral and Vice-Admiral of the Blue first lighted upon them, and forced them to tack. Several of our ships were constrained to do the like. The *Asia*, to admiration, kept an excellent wind and her station, following our Flags, who with all the sail they could make, without regard to the merchantmen, stood to sea and run; the enemy a little to leeward of us pursuing, and most of them sailing better than we, being *clean ships*. However, we kept jogging on with them till between 9 and 10 o'clock, but perceiving then the eminent danger we were in of falling into the enemy's hands, the next morning, having, two or three hours before, consulted with Captain Hazelwood about contriving for our security by the favour of the night, a fair wind and a brisk gale, the proposal being approved by the rest of our passengers, and by them also seconded and urged, Captain Hazelwood called and consulted all us officers; every one of them giving his opinion that there was a great probability of out escaping, if we bore up, by favour of the night and a fair wind, in the main we unanimously agreed; and having first well weighed and considered all the difficulties and hazards that might attend our bearing up, at length having taken a firm resolution to do so, and a favourable opportunity of part of the enemy's ships being sailed ahead of us, and the greatest part, a good way astern, having tacked also after us, at 10 o'clock we put away before the wind, which was then at N.N.W., steering away south till 4 o'clock; and the 18th in the morning, the last night the *Chandos*, being near us, and in the same consternation, followed us. From 4 o'clock till 2 in the afternoon we steered away E.S.E., then E.; at noon finding ourselves in the latitude of Cape Spartell, the *Loyalty*, being to windward of us all this day, perceiving we made for said Cape, put out her colours, which we answering with ours, bore up and joined us in the evening, so that we are now, *Asia*, *Chandos* and *Loyalty* together, and all three anchored in this Bay of Gibraltar last night a little after 10 o'clock, Capt. Shenney of the *Italian Merchant* being got in just before us; and this morning about 10 o'clock the *Success* Ketch of London, Captain Andrew Hawkes, bound for Malaga, and also one of our fleet anchored here; he bearing away also the 17th at 9 o'clock at night with the *Smyrna Factor* and about 18 sail more, who he saw all go into Cadiz yesterday morning at break of day, and affirms that the *Reward* was one of them, and

another, with a blue stern, which we hope to be the *Rebecca*. This is in haste by an express, on purpose, to Cadiz, recommended by Messrs. Hodges and Haynes, which pray communicate to our friends. We are

Your most faithful servants,

Peters and Vaughan.

Hon^{d}. Sir,

To show you that I live, though without money or credit, and with the fear of the *Crown's* and *Mary's* loss, I make bold after signifying my cousin's health and my own to subscribe particularly in this,

Sir, your most observant nephew, and very humble servant,

T. Vaughan.

Addressed To Mr. George Boddington, Merchant, In 16 London, viâ Cadiz. *Noted* Cadiz 4 July 1693. Forwarded per, Sir, your servants, Malbrauk and Stone. Madrid the 15th July 1693. Forwarded per J^{no}. Ballard, Ric^{d} Stone and Comp^{a}. Received 31 July, Peters & Vaughan. *Endorsed* in Mr. Bridgeman's hand "Read at the Committee Sept. 14, 1693." *Numbered* No. 17.

(f)^{28}. Extracts and copies of several Orders and letters between the Commissioners of the Admiralty, the Admirals of the Fleet and Sir George Rooke, touching the Straits Squadron parting with the Grand Fleet; as follows:—

Extract of a letter to the Admirals.

Aug. 30. "As to what you mention . . . . instructions for his proceedings." [Given also at length in (f)^{28} below.]

Extract of Answer to same from the Admirals.

Sept. 2. "We hoped the results . . . . further advice." Given also at length in (e) xi., and referred to in (f)^{28} below.]

Copy of her Majesty's Orders, 28 June.

"Our Will and pleasure is . . . . receive further Orders." [Given also at length in (f)^{28} below.]

Mr. Secretary Trenchard's letter to the Admirals, 28 June.

"The Queen having thought fit . . . . Envoy extraordinary at Lisbon." [Given also at length in (f)^{28} below.]

Result of the Council of War of 1 July.

Her Majesty having thought fit that Sir George Rooke should return with some of the men of war under his command for Plymouth, in case the French be joined and are come to the Northward,

Q. Whether the Fleet shall proceed to Lisbon, according to our first opinion of the 23rd June, her Majesty's pleasure not appearing to us to be clearly explained, in case the French Fleet should be gone to the Southward?

It is humbly offered to her Majesty's consideration that, in case the French Fleet should be come to the Northward, Whether it would be advisable to sail to Lisbon and leave the coast of England exposed to the insult of the enemy.

The reason that induced us then to propose going to Lisbon was to secure Sir George Rooke and the merchantmen, and to sail with them further and bring them home, as it should be judged fit; but Sir George

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It is the opinion of the Council of War, that her Majesty's Orders to Sir George Rooke were so full, that there was no occasion of giving him any further advice.

Copy of an Order to Sir George Rooke.

Sept. 1. Whereas by our Order of the 19th of May last, you were directed to proceed with the Squadron under your command, and the merchant ships under your convoy, in company with the Main Fleet so far as the Admirals should direct, and after your parting from them, to steer such course in your passage to Cadiz as the Admirals should direct; And whereas by our Order of the same date, the Admirals were directed to keep you company so far as they should think requisite, and to order you, after parting from them, to steer such course in your passage to Cadiz as should be thought most safe, as well in relation to the Brest fleet (if gone to sea) as to the Toulon squadron; You are hereby required and directed to send us forthwith an account what orders you received from the Admirals for your proceeding, and, if none, what reasons were given you for the omission, as likewise what reasons they gave you why they parted with you before you were out of danger of the Brest fleet in these parts. You are likewise to let us know whether any Council of War was held, pursuant to our said Order, and, if so, whether it was debated what directions should be given you, and what were the Results; but if no such Council of War was held, or that this was not debated, what reasons were given you for it, and why you parted with them, without receiving orders from them for your proceeding, as you were directed. And you are further to acquaint us, what endeavours were used to know whether the French Fleet were gone out from Brest, or to gain intelligence where they were, and if not, what you judge to be the reason of not doing it.

Sir George Rooke's Answer.

Sept. 5. I have received your Lordships' Order of the 1st instant, and shall answer to the particulars therein required to the best of my knowledge; and accordingly I do herewith send you copies of the two only orders I received from the Admirals of the Fleet, after your Lordships' of the 19th of May last.

On the 22nd of May the Admirals called a Council of War of Flag Officers on board the *Britannia* at St. Helens, upon your Lordships' Order to them of the 19th ditto, where it was resolved the Fleet should sail the 24th, if the wind presented fair; that they should accompany the Straits Squadron and the fleet of merchantmen W.S.W. 30 leagues from Ushant, and signals were agreed on and appointed for our parting with the Main Fleet.

On the 4th of June, early in the morning, being near the aforesaid station, the signal was put abroad by the Admirals for my parting with the Fleet, and proceeding on my voyage, which was accordingly answered by us; but proving little wind afterwards, they called a Council of Flag Officers, on which, though at a great distance, I went on board them to enquire what intelligence they had got of the Brest fleet, but could not learn any ships were sent in our passage by for that purpose; so that I asked the Admirals at the Council of War for their orders for my proceeding to Cadiz, who told me it was impracticable and irrational, and that I must proceed pursuant to the Orders I had received. And in the

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Admirals' order to me of the 26th of May, I must observe to your Lordships two particulars, first, that by the rules and discipline of war, the signal for our parting being put abroad was a sufficient warrant for my proceeding according to my former Orders, and secondly, it does plainly imply they never intended me any other orders than that signal.

I cannot charge my memory with the particular debates at the Councils of War, nor entirely with the Results, having never received any copies of them, and for the Admirals' reasons for parting with me, in the uncertainty they were of the enemy's motion, I am altogether a stranger to them, being of opinion it was not proper for me to expostulate with them on that subject, not knowing what orders they might be under, concealed from me; which is what I take to be necessary, in obedience to your Lordships' said Order, and do remain with great respect, &c.

The first order mentioned in the before going Order letter was the rendezvous in case of separation.

The other order was that which follows, viz^{t}. :—

By virtue of an Order from the Right Hon. the Commissioners of the Admiralty, you are hereby directed and required to sail with the Squadron of their Majesties' ships under your command, together with the merchant ships under your convoy, in company of the Grand Fleet, till it arrives at the place of rendezvous, 30 leagues W.S.W. off Ushant, where you are to expect the signal agreed on at a Council of War, in order to your proceeding on your voyage. For which this shall be your warrant. Dated 26 May 1693. *Signed* H. Killegrew, R. Delaval, Cloudesley Shovel.

To Sir Geo. Rooke, Knt., Vice-Admiral of the Red.

Copy of an Order to the Admirals.

Sept. 8. [Given also at length in (*e*) xi. and referred to in (*f*)[28] below.]

Copy of the Answer from the Admirals.

Sept. 16. [Given also at length in (*e*) xi. below.]

Copy of Result of Council of War, 16 *Sept.* 1693.

"Several orders . . . . intentions and endeavours." [Given also at length in (*f*)[28] below.]

Copy of a Letter from the Admirals.

Sept. 18. "In our letter of the 16th inst. . . . . as we signified to you at several times." [Given also at length in (*e*) xi. and referred to in (*f*)[28] below.] At the end of this letter a summary is given of the orders given to the *Mary*, *Rupert*, &c., which orders are given at length in (*f*)[28] below. *Dated* Sept. 1693.

Endorsed in Mr. Bridgeman's hand: Received Sept. 21, '93. *Numbered* No. 18.

(*f*)[26]. Letter from the Admirals of the Fleet to Mr. Bridgeman, as follows:—

Aboard the *Britannia* at St. Helens,
the 19th of Sept. 1693.

Sir,—We have received yours of the 15th with the enclosed from the Right Hon. the Lords of the Council, appointed a Committee

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Wm. Bridgeman, Esq.

Endorsed "Read at the Committee the 21 Sept." *Numbered* No. 19.

(*f*)[27]. Letter from same to the Lords of the Council, as follows :—

My Lords,—According to your Lordships' commands, signified to us under date of the 15th of this month, we have stated an Account in writing of all our proceedings in relation to the Straits Squadron, till the parting with the said Squadron, with copies also of all orders, Councils of War, &c., relating to that matter, all which is humbly offered to your Lordships' consideration by, &c. *Signed*, H. Killigrew, R. Delavall, Cloud. Shovell. Dated *Britannia*, at St. Helens, the 21st of Sept. 1693.

Endorsed in Mr. Bridgeman's hand : "Received Sept. 22nd, '93," *Numbered* No. 20.

(*f*)[28]. Account from the Admirals of the Fleet; as follows :—

An Account of our proceedings in relation to the Straits Squadron under the command of Sir George Rooke, with copies of all Councils of War relating to that matter, and of such orders and letters as we have received and given concerning the same, and also Extracts from several of our letters to the Right Hon. the Commissioners for executing the Office of Lord High Admiral of England on this subject.

May 13, 1693. About 4 of the clock this afternoon we received a letter from the Right Hon. Sir John Trenchard, their Majesties' Principal Secretary of State (dated the 12th) signifying that Her Majesty had thought fit to command some of the Lords of the Council to go on board the Fleet, to be present at a Council of War of Flag Officers, to give such directions as they shall judge requisite for the present service.*

May 14. At 5 this evening the Lords came on board the *Britannia*, and immediately, their Lordships being present, we called a Council of War of English and Dutch Flag Officers, and about 8 in the evening their Lordships arose, and the Council of War broke up, without coming to other Resolutions, than that their Lordships directed a Council of War of English and Dutch Flag Officers should be held the next morning, to consider and give their opinions what was best to be done with the Straits Squadron.

May 15. This morning early a Council of Flag Officers was called, which sat till about 10 of the clock in the morning, when they gave their opinion as follows :—

At a Council of War held on board their Majesties' ship the *Britannia* at St. Helens, the 15th May, 1693.

Present :

The Hon. Henry Killegrew, Esq., Sir Ra : Delavall, Knt. and Sir Cloudy Shovell, Knt., Admirals of their Majesties' Fleet; Sir George

* "The Queen has ordered Lords Caermarthen, Devon, Dorset, Rochester and Pembroke, and Secretary Trenchard to go to Portsmouth to inspect the Fleet, and give necessary orders, and they went this afternoon."—*Luttrell* (May 13), iii. 97.

Rooke, Knt., Vice-Admiral of the Red; the Right Hon. the Lord Berkely, Vice-Admiral of the Blue; Matthew Aylmer, Esq., Rear-Admiral of the Red; David Mitchell, Esq., Rear-Admiral of the Blue; John Nevill, Esq.

The Hon. Phillip Almonde, Esq., Admiral of the Fleet of the States-General; Vice-Admira Van de Putten; Vice-Admiral Callemberg; Rear-Admiral Vandergoes; Rear-Admiral Evertsen; Rear-Admiral Muijs.

It is our opinion that if the Toulon squadron be come out of the Straits and joined those of Brest, that 10 men of war, a small frigate and a fireship may be a sufficient convoy for the Turkey fleet, and the separate convoy for Spain proceed with them, as by the Admiralty designed; and that the Turkey fleet sail with the Main Fleet; and if the French Fleet be joined and at Brest, that the Turkey fleet proceed with their convoy. But if the French Fleet be not in Brest and joined, that then the Main Fleet proceed with the Turkey fleet as far into the sea, as it shall be adjudged at sea convenient by a Council of Flag Officers. But if there be no certain intelligence of the Toulon squadron being come out of the Straits, or where they are, before the Fleet sail from St. Helens, that then the Turkey fleet remain here with the convoy we have here proposed, till further intelligence be had of the Toulon squadron.

Which Council of War being signed by the English and Dutch Flag Officers mentioned therein, we went on shore with the said Flag Officers, and delivered it to my Lord President.

May 20. From the 15th of May till this day we remained in expectation of Orders, pursuant to the opinion of the Council of War before-mentioned. Notwithstanding which, about 2 of the clock this afternoon, we received positive Orders from the Right Hon. the Commissioners for executing the Office of Lord High Admiral of England, to take the first opportunity of wind and weather to sail with their Majesties' Fleet under our command, together with the Squadron of their Majesties' ships under the command of Sir George Rooke, and the merchant ships under his convoy, bound to the Mediterranean, &c., a copy of which Order follows :—

In pursuance of Her Majesty's pleasure, signified to this Board, you are hereby required and directed, with the first opportunity of wind and weather, to sail with their Majesties' Fleet under your command, together with the Squadron of their Majesties' ships under the command of Sir George Rooke, and the merchant ships under his convoy, bound to the Mediterranean, and to keep company with the said Squadron and merchant ships, so far as you shall think it requisite; and you are to order Sir Geo. Rooke, after your parting with them, to steer such course for their passage to Cadiz as shall be thought most safe by a Council of War, with relation as well to the Brest fleet, if gone out to sea, as to the Toulon squadron.

You are to send a frigate before you to Plymouth to give notice to the *Foresight* and *Archangel*, with the merchant ships under their convoy bound to Virginia, and also to the merchant ships there bound to Bilboa, to be ready to join you when you come off that place; and you are to join with them and keep them company as far as you shall judge fitting, and then send away the Virginia ships with their convoy, and order one fourth and one fifth rate of the Fleet under your command to proceed with the ships bound to Bilboa and convoy them in safety to that place, and then return to the Fleet.

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When you shall have parted with the Squadron and merchant ships bound to the Mediterranean, and those to Virginia and Bilboa, as before directed, you are, with their Majesties' Fleet under your command, to prosecute your former Orders. For which this shall be your warrant.

Dated at the Admiralty Office this 19th day of May, 1693.

Falkland.
J. Lowther.
H. Preiceman.
R. Austen.

To Henry Killigrew, Esq., Sir Ralph Delavall, and Sir Clou[ly]. Shovel, Knt., Admirals of their Majesties' Fleet.

By command of the Commissioners. *Signed*, J. Sotherne.

May 21. Small gales of wind round the compass, but for the most part calm.

May 22. In pursuance of the Lords of the Admiralty's Order abovesaid, we called a Council of War of Flag Officers, at which the said Order was read and considered, and the Resolution of the said Council of War was as follows:—

At a Council of War held on board their Majesties' ship the *Britannia* at St. Helens, this 22nd May, 1693.

Present:

[Same as on 15 May, with the addition of Sir John Ashby, Knt., Admiral of the Blue.]

Upon consideration of an Order from the Right Hon. the Commissioners of the Admiralty, dated the 19th instant,

Resolved, That 4 Dutch and 2 English men of war be appointed to convoy the Bilboa fleet to Bilboa, and when they have seen them safe there, to return to the Fleet.

If the Fleet separate betwixt this and Torr Bay, with the wind westerly, St. Helens to be the place of rendezvous. If the Fleet should be to the westward of Torr Bay, Torr Bay to be the place of rendezvous, and that the Main Fleet and Sir George Rooke's Squadron with the merchant ships sail together on Wednesday, if the wind prove fair, and to keep Sir George Rooke company with the merchant ships 30 leagues W.S.W. off of Ushant, and that to be the rendezvous.

And when the Admiral puts the Blue Flag on the fore-top masthead, and fires five guns, Sir George Rooke, as also the rest of the convoy, are to proceed according to their Orders from the Admiralty.

May 30. This day we sailed, the winds and weather and the services of the Fleet, such as taking in provisions and stores, &c., not permitting us to do it before.

June 4. Between the 30th of May and this day at noon, the Fleet was sailed into the latitude of 48·23 and was from Ushant West and by South about 30 leagues at noon. In the morning, according to the Resolution of the Council of War of the 22nd, we made the signal for Sir George Rooke and his convoy parting and proceeding according to their Orders from the Lords of the Admiralty, and thereupon called a Council of Flag Officers, where it was resolved to sail 20 leagues further with the Mediterranean Fleet; and here follows the Result of the Council of War:—

At a Council of War held on board their Majesties' ship the *Britannia*, at sea, 30 leagues W.S.W. off Ushant, the 4th June, 1693.

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Present :

[Same as on 22 May, with the exception of Rear-Admiral Vandergoes and Rear-Admiral Evertsen.]

Upon a debate whether the Fleet has proceeded far enough with the Mediterranean Squadron ;

Resolved, That in consideration we have no intelligence where the enemy is, the Fleet sail 20 leagues further with the Mediterranean Fleet, and to leave 3 frigates in the former rendezvous, to give notice to all ships that belong to the Fleet, that they remain here till further order. After we have seen the Mediterranean Squadron 20 leagues further, we are to return to our former station to take up the cruisers, and then proceed 10 leagues N.W. from Ushant, which is the place appointed for the rendezvous.

June 6. This evening we parted with the Mediterranean Fleet, and at noon were from Ushant W.S.W., half W., distance 48 leagues, latitude 48 degrees.

Thus far relating to all things concerning the Mediterranean Fleet, till our parting. By way of Journal we proceed to lay down the copies of several Councils of War, Orders and Extracts from several letters of the Lords of the Admiralty since, and extracts of our Answers thereto.

Here follows copy of an Order from the Right Hon. the Commissioners of the Admiralty, dated the 11th July [see (*e*) XI.].

July 14. A Council of War was held in pursuance of the aforesaid Order, a copy whereof is hereunder inserted :—

At a Council of War held on board their Majesties' ship the *Britannia*, in Torbay, 14 July, 1693.

Present :

The Hon. Henry Killigrew, Esq.; Sir Ralph Delaval, Knt. ; and Sir Cloudesley Shovel, Knt., Admirals of their Majesties' Fleet ; the Right Hon. John, Lord Berkeley, Admiral of the Blue ; Matthew Aylmer, Esq., Vice-Admiral of the Red ; David Mitchell, Esq., Vice-Admiral of the Blue ; The Right Hon. the Earl of Danby, Rear-Admiral of the Red ; John Nevill, Esq., Rear-Admiral of the Blue ; George Meese, Esq.

The Hon. Philip Almonde, Esq., Admiral of the Fleet of the States General ; Vice-Admiral Callemberg ; Rear-Admiral Evertsen ; Rear-Admiral Muijs.

In answer to your Order of the 11th of July, requiring why the Council of War did not direct what course Sir George Rooke should steer, it was then the opinion of the Council of War, as it is now, that to give such directions what course he should steer was altogether impracticable, as well as unreasonable, unless we had been masters of the winds and knew certainly where the French Fleet were.

Extract from our letter of the 14th July to the Right Hon. the Commissioners for executing the Office of Lord High Admiral of England.

Right Honourable.—In answer to your Order of the 19th May last, and pursuant to your Order of the 11th inst., we here enclosed send you the opinion of the Council of War, which was the same before as now, and shall lose no opportunity of sailing to the westward, pursuant to her Majesty's pleasure, signified to us in a letter from Sir John Trenchard of the 11th inst.

August 16. The Fleet coming into Torbay, we received by the *Dreadnought*, Capt. Coale, at about 6 o'clock in the evening, an Order of the Lords of the Admiralty, dated the 18th July, which follows :—

"Whereas by our Order . . . . for his proceedings. [See (*e*) XI.]

1693. — No. 765. Aug. 17. We wrote to the Lords of the Admiralty, in return of their Order of the 18th of July before-mentioned, extract from which letter follows :—"As to your Order of the 18th July . . . . in the execution of your orders." [For the Letter containing this Extract see (*e*) XI.]

Sept. 1. We received a Letter at St. Helens from the Right Hon. the Commissioners of the Admiralty, dated 30th of August, extract from which follows.

"Gentlemen,—As to what you mention in that of the 17th, that a Council of War, held the 14th July, did resolve it was impracticable and also unreasonable to give Sir George Rooke orders what course to steer, unless it could be known how the winds would have been, and certain intelligence could be had of the French Fleet, we do desire that, since our Orders of the 19th May last, which directed the same, appeared so unreasonable, you will let us know whether they were considered at a Council of War before you sailed from St. Helens, and, if so, why you did not represent the same to us, before you parted from that place. But if a Council of War was not then called, to consider thereof, we desire you will let us know at what time, before your parting with Sir George Rooke, the same was done, and what was thereupon resolved; as also what those orders were, which, in the Result of the Council of War of the 1st July, is said to be so full, that there was no occasion for giving Sir George Rooke other instructions for his proceedings."

Sept. 2. We answered the said Letter from the Lords of the Admiralty, extract whereof (i) follows, with (ii) copy also of the Queen's Order of the 28th June to Sir George Rooke, and (iii) the Right Hon. Sir John Trenchard's Letter to us of the same date, which our said Letter of the 2nd Sept. refers to :—

(i). "We hoped the Results of the Councils of War . . . . . further advice." [For the Letter containing this Extract see (*e*) XI.]

(ii.) MARY, R.

Our will and pleasure is, and we do hereby authorise and require you, that in case you shall have been obliged to go into the river of Lisbon with the Squadron and ships under your command, and you shall have certain intelligence during your stay there, that the French Toulon squadron has joined the rest of their fleet, and are together gone northward from off the coast of Portugal, you do then leave the *Monck*, *Lion*, *Woolwich*, *Lumley Castle*, *Princess Ann*, *Loyal Merchant*, *Lark*, *Salamander*, bomb vessel, *Œsterstellingwerf*, *Beschermer*, *Mendenblyck*, *Nimegen*, and one fire ship, as also the *Turkish Tiger*, and *Smyrna Factor*, to convoy the ships bound to the Mediterranean, under the command of such person, and with such instructions as the Commissioners for executing the Office of the High Admiral of England have ordered; and you are to return as soon as may be, wind and weather permitting, to join our Main Fleet with the residue of the said Squadron; and in order thereunto, in case you do not meet the Main Fleet by the way, to make for the port of Plymouth, where you will receive further Orders, and for so doing this shall be your Warrant. Given at our Court at Whitehall the 28th June 1693, in the 5th year of our reign. By command of her Majesty, J. Trenchard.

Whitehall, 28 June 1693.

(iii.) Gentlemen,—The Queen having thought fit to send an Order to Sir George Rooke, you will herewith receive a copy of the same, to the intent that if, upon this occasion, you shall think it requisite to

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send any information or advice to Sir George Rooke, what course may be best for him to hold, if he should come back, you may have the opportunity of writing by the same conveyance which carries her Majesty's Order, enclosing your letter under cover to Mr. Methuen, their Majestics' Envoy Extraordinary at Lisbon. I am, &c.

J. Trenchard.

Sept. 11. Came to our hands the following Order from the Right Hon. the Commissioners of the Admiralty, dated the 8th September :—

"Whereas by our letter of the 30th . . . . . distinct and positive answers." [Given also at length in (*e*) XI.]

Sept. 16. We called a Council of War, where the said Order from the Lords of the Admiralty of the 8th inst., among other things, was read and debated, upon which the Council of War came to the following conclusion :—

At a Council of War of Flag Officers held on board the *Britannia*, at St. Helens, the 16th day of September, 1693.

Present :

The Hon. Henry Killigrew, Esq., Sir Ralph Delavall, Knt., and Sir Cloudesley Shovel, Knt., Admirals of their Majesties' Fleet; Sir George Rooke, Knt., Admiral of the Blue; Matthew Aylmer, Esq., Vice-Admiral of the Blue; David Mitchell, Esq., Rear-Admiral of the Red; Thos. Hopson, Esq,, Rear-Admiral of the Blue; George Meese, Esq.

The Hon. Philip Almonde, Admiral of the Fleet of the States General; Vice-Admiral Callemberg; Vice Admiral Van de Putten; Rear-Admiral Evertsen, Rear-Admiral Vandergoes, Rear-Admiral Muijs, Rear-Admiral de Vries.

Several Orders, letters and results of Councils of War of Flag Officers relating to the Fleet's sailing, and the Straits Squadron, with the fleet of merchant ships, parting with the Main Fleet, were read by the Admirals and Flag Officers, and several debates thereon, and at last Agreed and Concluded, That the several Councils of War of Flag Officers, relating to the above services, were resolved according to the best of our reason, and executed to the best of our knowledge, and we do heartily wish the event had answered our intentions and endeavours.

Sept. 16. We wrote also to the Admiralty, upon their said Order of the 8th September, extract of which letter follows :—

"We also here enclose you a copy of the Result of the Council of War held on board us this day, in return to your Order of the 8th present, and we doubt not but it will answer the intent of the said Order, otherwise we shall endeavour it when we come to town."

Sept. 18. We wrote again to the Lords of the Admiralty on the matters treated on in their Order of the 8th inst., and here follows a copy of the said letter, and Copies of several Orders given to scouts and cruising ships, which are mentioned therein, viz^{t} :—

"In our letter of the 16th inst. . . . . signified to you at several times." [Given also at length in (*e*) XI.].

Copy order of 18 April, from the Admirals to Capt. Henry Boteler, of the *Mary*. To sail with the *Rupert*, under his orders, and cruise between Scilly and Ushant till the end of the month, taking in what provisions he can get at Dover, while the wind is westerly, doing his best to gain intelligence of the enemy, and if he discovers any considerable number of their ships of war, to retreat to Spithead and inform the Commander in Chief, as also the Commissioners of the Admiralty and themselves [the Admirals] ; otherwise to continue cruising till the said time be expired, and then return to Spithead for further Orders.

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Copy order of 26 April from same to Capt. Thos. Fowles, of the *Deptford*. To take under his command the *James* and *Portsmouth* Gallies, and cruise between Scilly and Ushant till 10 May, doing his best to gain intelligence. [&c. as in preceding.]

Copy order of 7 May from same to Capt. Symon Foulkes, of the *Mountagu*. To cruise with his ships and the *Rochester*, under his command, between Scilly and Ushant till 20 May, in case the Fleet does not join before that time, doing his best to gain intelligence of the enemy, and if he discovers any considerable number of their ships of war, to make the best of his way to the Fleet; and after the time for his cruising is expired, to repair to Plymouth for further Orders. He is to take under his care the *Edward*, and convoy her as far as his station will permit, as likewise 3 English merchant ships from Holland, and see them safe into Topsham.

Copy order of 19 May from same to Capt. John Jennings, of the *Winchester*. To take under his command the *Carlisle*, and cruise between the Lizard and Fornehead till the end of May, doing his best to gain intelligence of the enemy, and if he discovers any considerable number of their ships of war, to make the best of his way to the Fleet, and report.

Copy order of 25 May from same to Capt. Symon Foulkes, of the *Mountagu*. To repair to his former station, with the *Rochester*, and cruise there till 10 June, and on discovering any fleet or squadron of the enemy, to observe this former directions; and at the expiration of the time, to return to Plymouth, and, if the Fleet be gone to the westward, to proceed according to the rendezvous.

The account in relation to the Straits Squadron under the command of Sir Geo. Rooke with copies of all Councils of War, &c., relating to that matter is contained in the twenty foregoing pages subscribed this 21st September 1693, by us

H. Killigrew.
R. Delavall.
Cloud. Shovell.

I have read and perused this whole relation given by the Admirals concerning the Mediterranean Fleet under the command of Sir George Rooke, and all orders and papers relating thereto, and have been present at all Councils of War and consultations where consideration and debates, as in this relation, have been had thereon, and I do in all respects concur with the Admirals in what has been transacted concerning the same, and in my opinion more could not have been done.

Signed, P. Van Almonde.

Endorsed in Mr. Bridgeman's hand: "Received Sept. 22, 1693;" in another hand, "Received at the Committee the 28th." *Numbered* No. 21.

(*f*)[29]. Sept. 29. Letter from the Admirals of the Fleet to Mr. Bridgeman, as follows:—

Sir,

By our letter of the 19th inst., sent by express under a cover to the Admiralty Office, we intimated to you the receipt of yours of the 15th inst., with the enclosed from the Right Hon. the Lords (a Committee) of the Council, whose commands, signified therein, we have obeyed most readily, and enclosed we send the account which their Lordships' letter requires of us, which we desire you will lay before their Lordships, from

Sir, your very humble servants, *Signed*, H. Killigrew, R. Delavall, Cloud. Shovell. *Dated Britannia* at St. Helens, this day. *Addressed* to Mr. Bridgeman.

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Endorsed in Mr. Bridgeman's hand: "Received Sept. 22, '93." *Numbered* No. 22.

(*f*)[30]. June 29. Extract of a letter from Sir Ralph Delavall, as follows:—

"As for that part alleged as a fault for our leaving Sir George Rooke, it was not without the approbation of a Council of War, the Dutch showing a particular aversion for going above 10 leagues to the westward of Ushant, and it was not without some difficulty that we prevailed with them to go 30 leagues; and after that, at my particular instigation, we called another Council of War to propound going with Sir George Rooke 50 leagues further, or till we could gain some intelligence of the French Fleet; in which proposal all the Dutch, and some English differed so far with me, that I in some passion declared at the Council of War, that I saw no prospect of our doing the nation any such good service this summer, as our proceeding with, and securing the Straits Fleet, as far as our provisions would give us leave, upon which Sir Cloudesley Shovell and Mr. Killigrew joined with me, and so did the rest; but all we could bring the Dutch to, was to sail with them 20 leagues further, and indeed before we had well done that, they kept astern so far, they were quite out of sight; yet I find I am maliciously blamed: But both as to this, and every other my actions, the Results of our Councils of War will best demonstrate who is guilty." *Endorsed* in Mr. Bridgeman's hand: "Extract of a Letter from Sir Ralph Delavall, June 29, '93. Received from Mr. Secretary Trenchard and read at the Committee, Sept. 28, '93." *Numbered* No. 23.

(*f*)[31]. June 8. Extract from a letter from Sir Cloudesley Shovell to Capt. Hill, as follows:—

"On Sunday the 4th instant we arrived at the place of rendezvous, which was W.S.W. 30 leagues from Ushant, where, the wind being to the northward of the east, the Virginia ships and those bound to America kept to the westward, the Bilboa ships to the eastward, and Sir George Rooke with the Straits ships steered to the south-westward. He having advised with the Commanders of the men of war and merchantmen, they concluded to sail near the coast of Portugal, assuring themselves of the northerly winds at this time of the year, and by sending a frigate before to Lisbon, he might hear if the French were before Cadiz." *Endorsed* in Mr. Bridgeman's hand: "Received from Mr. Secretary Trenchard and read at the Committee, Sept. 28th, '93." *Numbered* No. 24.

(*f*)[32]. From J. Sotherne to John Povey, Esq.,* at Whitehall, as follows:—

Sir, Admiralty Office, 5 Oct. 1693.

In answer to your letter of this day's date, I am to acquaint you, that upon receipt of your former letter, orders were immediately given to the Commissioners for Sick and Wounded and Exchange of Prisoners, for causing the Captain and Lieutenant of the French fireship to be brought before the Lords of the Committee, and enclosed I send you a copy of the said Commissioners' answer to the same.

I am, Sir,
Your most hûmble servant,
Signed, J. Sotherne. *Addressed to* Mr. Povey.

Endorsed 5 October 1693. From Mr. Sotherne, with a copy of a letter from the Com[rs] for Exchange of Prisoners, touching the Capt.

* He was one of the Commissioners for sick and wounded, &c. *Luttrell*, 14 June 1705.

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(*f*)[33]. 4th Oct. Copy of the Commissioners' of Sick, Wounded, and Exchange of Prisoners letter, dated this day, as follows :—

The Captain and Lieutenant taken in the French fireship by Sir George Rooke in Lagos Bay, were about three weeks ago sent to Dover in order to their transportation for France, where we suppose they yet are, and in obedience to your Lordships' commands of the 3rd inst., received this morning, we have countermanded them and given special orders for returning them with all speed ; but it is impossible for them to be here so soon as to attend at the Council to-morrow evening. *Endorsed:* "4 October 1693. Copy of a letter from the Comrs," &c., like preceding. Received from Mr. Sotherne the 5th October 1693. *Numbered* No. 26.

(*f*)[34]. From Ar: Shallett to John Knight, Esq., Receiver General of his Majesty's Customs, at his house in Beaufort Buildings, as follows :—

Honoured Sir, Paul's Wharf, Oct. 3, 1693.

Underneath you have copy of what Mr. Thos. White, late arrived from Marseilles, gives relating to the Turkey fleet, &c. I have some remarks on it to make to you when have opportunity, and now only have to acquaint you that Mr. Heathcote has a copy of this, which he has, or will send to my Lord Nottingham, and nobody else has any but your good self.

I am, Sir,
Your most obedient Servant,
Signed, Ar: Shallett.

Thomas White, Commander of the *Mariner's Adventure*, being a prisoner at Marseilles, says :—

That about six weeks before the misfortune happened to the Turkey fleet, he heard the merchants at Marseilles discourse that their fleet was a-coming out to lie in wait for our Straits and Turkey fleet, and that they did not doubt but they should have them all, for that they will come out with the Grand Fleet, who would convoy them about 50 or 60 leagues S.W. from Scilly, which they would imagine was far enough to clear them of the French Fleet,* and leave the merchantships to proceed on their voyage under the command of Admiral Rooke with 20 men of war.

That about six weeks time after, to his great astonishment, it proved all true that they had foretold, except the taking of all the fleet, for that they only got 14 ships, of which no one English except a small ketch laden with tobacco, the rest being Hollanders, Danes, and Genoese.

He came from Marseilles the 5th August, and the 8th he saw off Marseilles about 20 sail of the biggest men of war standing for Toulon. It was thick weather, otherwise he might have seen more.

That about the 20th August he met off of the island Ivere, a French man of war of about 70 guns, who had been at Sallee with the French ambassador.†

That about the 26th August off of Cape de Gatt he met another French man of war of about 40, who inquired of him where the French Fleet was, being sent with a packet to Admiral Tourville, as he was informed by some of the men.

* (*f*)[33]. Below reads "the French Fleet, and so then they would return back to look for the French Fleet, and leave the merchant ships," &c.

† (*f*)[36]. Reads "at Sallee with an ambassador."

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He says that at Marseilles they had 45 sail of galleys, which had been at the taking of Roses, and were all cleaned and ready for any other expedition; that biscuit was there as cheap or cheaper than here, having daily supplies of corn from Barbary. *Dated* London, the 3rd October 1693. *Signed* Tho. White. *Endorsed:* "Received and read at the Committee the 5th Oct. '93, presented by the Chancellor of the Exchequer." *Numbered* No. 27.

(*f*)[35]. 30 Sept. Letter from Gilbert Heathcote to the Earl of Nottingham, their Majesties' Principal Secretary of State, as follows:—

My Lord,

Capt. White's story of the merchants at Marseilles foretelling so long beforehand the exact managery of our fleet is something odd, that I bid him put it in writing and do send it herewith for your Lordship's perusal. It is strange they should make such unlucky guesses at our conduct, and yet one would think if there had been treachery, it would have been more a secret and not communicated to the merchants of Marseilles. This Capt. White seems to be a discreet man. I humbly beg your Lordship's pardon for this presumption.

I am, Your Lordship's most humble servant,

Signed Gilbert Heathcote.

Dated St. Swithin's Lane, this day.

Endorsed: Read at the Committee 5 October '93. *Numbered* No. 28.

(*f*)[36]. Information of Capt. White, enclosed in preceding. Identical with that in (*f*)[34] except in the particulars there noted. *Endorsed:* Read 5 Oct. 1693. *Numbered* No. 29.

(*f*)[37]. Account from Capt. Fairborne as follows:—

Friday 16 June 1693.

"I was aboard the *Royal Oak* with Sir George Rooke soon after our scouts made the signal of seeing the enemy, and did agree, with the rest of the Captains that happened to be then aboard, to the Resolutions the Flags had already taken (that was to take the favour of the wind and night to force our way through the enemy to Cadiz). I was of this opinion from a belief that there could be no greater strength of the enemy on the other side the Southward Cape, than that of Monsieur d'Estree's squadron, or that of Monsieur Gabaret's, having no advice of the fleet sailed out of Brest. After we had passed the Cape and got the next morning over against Villa Nova, we found the enemy seemed much surprised, by their steering away from us, ten ships of theirs being very near us, towing away with boats ahead. One ship they had quitted blew up twenty of our men. We took another fire ship, whose Captain told us this squadron we see was commanded by the Marechall Tourville, consisting of about 20 men of war, and that they were going to join Monsieur d'Estree in the Straits. A Lieutenant that was taken refused to give any account. Sir George Rooke sent me with Capt. Gardner to examine the prisoners aboard the prize fire ship, where the French gunner told me that this squadron we see going from us was commanded by the Marechall Tourville, that he was then but in a ship of 70 guns, and that the ships he had with him were 15 men of war from 70 to 50 guns, and about 10 sail of small frigates more; the rest we see were store ships and merchant ships; that they were going to join Monsieur d'Estree in the Straits. I examined another of the prisoners, whom they called master's mate. He gave me the same account and, besides, told me that Monsieur Chateaurenault was then at Brest, but designed to be very soon with 50 of their biggest ships of war in our Channel. I brought these prisoners

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(*f*) [33]. Bound book containing answers to some questions proposed to the Admirals; as follows:—

"Questions delivered to us by Mr. Bridgeman, one of the Clerks of their Majesties' Most Hon. Privy Council, at our attending the Council, Monday the 9th of October, 1693.

Question 1st: Why the whole Resolution of the Council of War of the 22nd of May was not sent to the Lords of the Admiralty before the Fleet sailed?

Question 2nd: Whether it was not debated in the Council of War of the 22nd of May that, if the French Fleet were sailed out of Brest, they should advise further what measures were to be taken before they parted with the Straits Squadron?

Question 3rd: What day the *Warspite* was sent, and whither and from whence, and when she returned to the Fleet?

Question 4th: When the *Mountagu*, which was sent to cruise the 25th of May, returned to the Fleet, and what account she *brought*?

Answer 1st: The substantial and material part of the Council of War of the 22nd May, relating to the sailing of the Main Fleet and the Mediterranean Squadron under the command of Sir George Rooke, and how far that Council of War advised they should keep company, was sent the Lords of the Admiralty in a letter of that day's date, and several advices concerning the Fleet's sailing in further letters of the 24th, 28th and 30th of May. What more was contained in it was the notice that 4 Dutch and 2 English men of war be appointed a convoy for the Bilboa fleet. The English ships proper and designed for that service, not being then with the Fleet, could not be appointed at that time, but by letter of the 26th May (which was before the Fleet sailed) the Lords of the Admiralty were acquainted that the *Crown* and *Adventure* (being the ships intended for that convoy) were ordered to come to the Fleet from Plymouth, if the wind hung westerly, and by letter of the 1st June their Lordships were advised, that the said ships were designed for that convoy, and on the 9th June that they were gone on it with 5 Dutch men of war. The remaining part of the said Council of War was only the signal for parting with Sir George Rooke, which was not material to send, so that we conceive their Majesties' service has not, nor could suffer, presuming, if there has been any omission, it was only in matter of form, and not purpose or fact.

Answer 2nd: We affirm that we do not remember or know of any debate at the Council of War of the 22nd of May, of taking any measures for intelligence of the French Fleet's being sailed out of Brest, nor did any single Flag Officer at that Council of War make any proposal (that we know of) of that kind; the Council of War of the 15th having debated and given their opinions very full concerning the same, so that on the 22nd of May, being under orders to sail (in pursuance of the Directions from the Lords of the Admiralty of the 19th May), the Council of War considered and resolved at that time, how far they should sail with the Mediterranean Squadron, and where

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should be the rendezvous in case of separation; to the truth whereof we appeal to the testimony of the Flag Officers and persons present at the said Council of War; and hereto is annexed the Testimony of Admiral Almonde and Mr. Hubert Cran (Secretary to the Fleet of the States General) who were present at the before-mentioned Council of War.

In our answer to the Second Question we take leave to add, that the Lords of the Admiralty's Order for sailing with the Fleet under our command, together with the Squadron of ships under the command of Sir George Rooke, and the merchant ships under his convoy bound to the Mediterranean, directed we should keep company with the said Squadron and merchant ships, so far as we should think requisite; in a matter of which concern we judged, (which is humbly submitted to consideration), we could not act more for the nation's service and the safety of the said Fleet than by advice of a Council of War; and when we had gone as far as the said Council of War of the 22nd of May advised, the weather being such as did admit of it [*instead of making the signal for parting with Sir George Rooke (which we intended then to have done if the wind had been fair for him to have proceeded and blown so fresh as would not have given us opportunity to get the Flag Officers on board)], we called another Council of War on the 4th June, where it being debated whether the Fleet had proceeded far enough with the Mediterranean Squadron, it was resolved, in regard we had no intelligence of the enemy, we should sail 20 leagues farther with them, which accordingly we did, and on the 6th of June we parted and went to such stations as was judged properest for meeting the French Fleet, as the Order given us from the Lords of the Admiralty directed, concluding we were so to do. After we had thus executed the Lords of the Admiralty's Order for parting with the Straits Squadron, which the Council of War thought them out of danger of the enemy in these seas, and having no manner of intelligence that they were gone towards the Straits, we presume that none who do not make their judgments for the event, could conclude or foresee that the Brest fleet were gone for those parts, or that our Grand Fleet was fitted out or designed for a convoy to the Mediterranean ships only (which had a particular Squadron allotted them for that purpose), but to be a guard to our coast, as well as offence to the enemy; and if our Grand Fleet and theirs have missed after cruising for each other a whole summer (as hath been reported on both sides, on ours we are sure), how hazardous would it have been, and how fatal might it have proved to the Kingdom and how unaccountable for us, if we had left it without guard, by going without order to those parts where the Mediterranean Fleet fell in with the French; the conduct whereof we presume we are not answerable for, having to the best of our understandings executed the orders sent us with a due regard to the general good and concern of the Kingdom; and had the opinion of the Council of War of the 15th May been followed, in all probability the nation had avoided this great misfortune.

Answer 3rd: The *Warspite*, with others, was ordered the 14th June to stand in for Broad Sound, to make discovery if the enemy's fleet were at Brest. Ushant bore off us this day at noon E. by S., distance about 5 leagues, and the Fleet stood in that afternoon near the shore to sustain them. June the 16th they returned to the Fleet, but could not see so much as one ship in Brest.

* The words enclosed in square brackets are struck through.

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Answer 4th: May 7th the *Mountagu* in company of the *Rochester* was ordered to cruise between Scilly and Ushant till the 20th of May. May the 25th orders were sent to the *Mountagu* at Plymouth to cruise with the *Rochester* on her former station till the 10th of June. May the 29th we wrote to the Admiralty and signified to them that the *Mountagu* had taken a French merchantman from Mercellia bound to Havre-de-Grace, and then we doubted not but he had given their Lordships an account thereof and his cruise. May 29th we forwarded to the Lords of the Admiralty a letter from Captain Foulks, Commander of the *Mountagu*, and on the 14th June she returned to the Fleet, being then near Ushant, and brought us no intelligence of the French Fleet.

(*signed*) H. Killigrew.
R. Delavall.
Cloud^y Shovell.

Here follow the Councils of War of the 15th and 22nd of May, and 4th of June, with copy of the Lords of the Admiralty's Order of the 19th of May, that the whole series of the matter may lie together.

[Each of these four documents is given also at length in (*f*).[38]]

The Honble. Henry Killigrew, Esq., Sir Ralph Delavall, and Sir Cloudesley Shovell, Knts., Admirals of their Majesties of Great Britain's Fleet, having shewed me the Questions stated to them by the Right Honourables the Lords of their Majesties' Most Honourable Privy Council, and desired my knowledge concerning the second *Question*, I do hereby signify and declare, that at the Council of War *held on board* the *Britannia* (at St. Helens) the 22nd of May it was not debated or proposed by any English or Dutch Flag Officer to send any ships or squadron before Brest to gain intelligence of the enemy, for that the Council of War of the 15th of May, held on board their Majesties' said ship the *Britannia*, had declared their opinions and reasons fully in all points concerning the gaining intelligence of the enemy. Given under my hand at London the 10th of October 1693. *Signed* P. Van Almonde.

At the instanceof the Honble. Henry Killigrew, Sir Ralph Delavall and Sir Cloudesley Shovell, Knts., Admirals of their Majesties' Fleet, I, Hubert Cran, Secretary of the Fleet of the States General do hereby testify and declare, that I was present at the Council of War held on board their Majesties of Great Britain's ship the *Britannia* (at St. Helens) the 22nd of May last, at which Council of War there was no debate or discourse by any English or Dutch Flag Officer of sending any ship, ships, or squadron to Brest to gain intelligence of the French, all things relating thereto being in all points debated on at the Council of War of the 15th of May held aboard the aforesaid ship. In testimony whereof, I have hereunto set my hand in London, this 10th October 1693. *Signed*, Hub. Cran.

Endorsed: "Bundle 2nd. Answers to some Questions proposed to the Admirals. Received and read 12 Oct. 1693." *Numbered*, No. 31.

(*f*)[39]. Twelve Questions presented by the Turkey Company, to be asked Sir George Rooke. Begins ("Upon Thursday the 5th inst.") : Ends ("when he retreated ?"). [The contents of this paper are set out in Sir G. Rooke's Answer in (*f*)[41] below.] *Endorsed* in Mr. Bridgeman's hand : "Questions to which Sir George Rooke is to give an answer in writing. Received and read at the Committee, Oct. 12. 1693." *Numbered*, No. 32.

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(*f*)[40]. Oct. 18. Letter from Sir G. Rooke to Mr. Secretary Trenchard, excusing his attendance on the 19th, as follows :—

Sir,—Having received notice this morning from Mr. Povey, that I am to attend their Lordships at the Council Chamber to-morrow at five o'clock in the afternoon, I presume to give you the trouble of this, to acquaint you that, since my last waiting on their Lordships there, I have been so very lame in one of my feet, that I have not been able to turn myself in my bed ; nor can I yet, if it were to save my life, put it to the ground ; so that I humbly beg you will obtain me their Lordships' excuse, and if there be anything remaining on me to clear, I humbly pray I may have advice of it by one of the Clerks of the Council, and I shall give their Lordships the best satisfaction I am able ; being with great respect, &c. *Signed*, G. Rooke. *Dated*, this day.

Endorsed : Received at the Committee the 19th of Oct. 1693. *Numbered*, No. 33.

(*f*)[41]. Questions proposed to Sir George Rooke and his answers to them ; as follows :—

" Upon Thursday the 5th instant, at a full Committee of Lords, Capt. Cotterell, Capt. Braddill, Capt. Jacobs, Capt. Sanders and Capt. Willmott were interrogated, Sir George Rooke being present, about several matters relating to the Mediterranean Squadron.

Questions.	*Answers.*
1. Whether any Council of War or Consultation was held upon Sir George Rooke's separation from the Grand Fleet ?	I did not hold any Council of War or Consultation from the time of our separation from the Grand Fleet till our discovery of the enemy's scouts, concluding I had no reasonable subject matter for it ; my orders tending directly to Cadiz ; and at my parting from the Admirals, when I asked them for their directions for my proceeding thither, they referred me to my former orders.
2. Whether they met and spoke with any ships, after they parted with the Grand Fleet, between that and the 16th of June ?	We spoke with no ship or vessel in our passage from the Grand Fleet to the 16th of June, but that Dutch ship I mentioned in my former paper, bound to Amsterdam from the Western Islands ; nor was any other seen by any ship in our Fleet that I know of, till we saw the enemy's scouts.
3. What land they made between the North and South Capes, and at what distance and upon what day ?	We made no land between the North and South Capes, nor did we come nearer by day or night than 26 or 28 leagues, till we hauled in to make the South Cape, which was the 16th day of June.
4. Whether Admiral Rooke did send in any ship to any part of the Coast of Portugal, to gain intelligence of the enemy ?	I ordered the *Lark* on the 15th of June in the morning to make sail ahead of the Fleet into Lagos Bay, for the gaining what intelligence he could of the enemy, but

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Questions.	*Answers.*
	the Captain, as I said in my former paper, hauling in nearer the shore than the Fleet, did lay becalmed all night, by which he was not so far advanced next day as the rest of our scouts.
5. Whether they did not discover the enemy's scouts the 16th of June on this side the South Cape, and how many and of what force, and what signal our scouts made to the Admiral upon sight of them?	We discovered but two of the enemy's scouts on the 16th of June on this side the South Cape, being ships of about 60 or 70 guns, with one of which the *Chatham* engaged, but in the evening our scouts saw more ships beyond the Cape, and according to their orders, made the signals of discovering the enemy.
6. At what time they took the French fireship, and what account the Captain and the Lieutenant and the other seamen gave of the French Fleet upon their examination?	We took the French fireship about 5 or 6 o'clock on the 17th in the morning, and for the account the Captain, the Lieutenant and the other officers and seamen gave of the enemy's ships, I do most humbly refer your Lordships to my former paper,* and to the officers who were present at their examinations.
7. About what hour on the 17th in the morning the Portuguese vessel with provisions came aboard the Admiral, and what account the three Portuguese gave of the French Fleet?	The little Portuguese bum-boat came aboard my ship about 8 o'clock on the 17th in the morning, and for the advice the two men in her gave us, I do likewise humbly refer to my former paper. and to Captain Martin, who took their examination; by which the incongruities and contradictions of their information will appear, being the true reason they were rejected without one dissenting opinion.
8. What buoys were seen in Lagos Bay, and whether they did not discover by them some great ships had cut away from thence?	Though I saw no buoys in Lagos Bay, being advanced further before day, yet I had an account of 15 or 16 from some of the ships that followed me; but the ships that cut from those buoys were fair within our prospect, some of them not getting further from us than 2 or 3 leagues the whole day.
9. Whether Admiral Rooke did send ashore to enquire the certainty of what intelligence he had from the Captain of the French fireship, and the Portuguese seamen?	I did not send for any advice from the shore, in regard we were a good distance from it, and being unwilling to lose any time in following the enemy, who made so precipitate a retreat from us.

* *See* (*f*)[21].

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Questions.	*Answers.*
10. For what reason he stood so far into Lagos Bay, and afterwards stood yet further towards the enemy, when so many ships were discovered?	I stood into Lagos Bay pursuant to the Resolution of the Council of War, and I proceeded further in pursuit of the enemy, who ran before us for 7 or 8 hours together, deserting some and setting fire to others of their sternmost ships, with all other apparent marks of surprise and consternation.
11. What orders he had given the merchantmen, in case they were to bear away from an enemy?	I do aver the merchantmen had as many or more instructions and orders from me, than has usually been given by any preceding convoy whatsoever; nor could any orders have been useful to them at that time, in regard I was uncertain what course to take till the minute I resolved from the Vice-Admiral's message to decline, and, if possible, avoid an engagement.
12. What care he took of the merchantmen when he retreated?	As soon as I resolved to retreat without engaging the enemy, I sent the *Chatham* to give the Rear-Admiral notice of it, and that I intended to stand off all night, that, if it were possible, he should order the *Newcastle* to take the *Chandoise* in a tow. I also ordered the *Sheerness* to tack and give such ships as he could speak with directions that, in case they could not keep up with the Fleet, they should join the *Smyrna Factor*, and get into Cadiz by the favour of the night, or secure themselves in some other ports in their way thither. I stood off myself with the rest of the men of war all night the same course I did before it was dark; and the false fires the two ships of the enemy made to leeward of us all night, was an infallible notice they kept sight of our Fleet, by which all ships of our company might have followed us much better than by my lights. The next morning I bore down upon and put those two ships to leeward, who would otherwise have cut off some of the sternmost of ours, and tacked after them to see if I could discover any more of our Fleet further astern, that might fall into their hands. And as there was as many necessary

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Questions. *Answers.*

orders dispensed for the preservation of the Fleet in general, as so short a time and the present circumstances would admit of, so was I not wanting in my particular and personal care of those ships that stood off with us, there not having been any one ship taken or destroyed within sight of my Flag: and as I ordered ships to be towed off, perhaps not worth a thousand pounds, I would certainly have been as careful of, and have ventured more to secure and protect those of a hundred thousand pound value, if they had thought fit to have continued with, and kept the Fleet company.

Signed, G. Rooke.
Dated, October the 14th, 1693.

Endorsed in Mr. Bridgeman's hand: "Received Oct. 14, 1693, and read at the Committee the 19th." *Numbered*, No. 34.

(*f*)[42]. Reply of Capt. Cotterell and Capt. Braddyll to Sir George Rooke's Answer, as follows:—

"The Reply of several Commanders of ships whose names are subscribed to the Answer of Sir George Rooke to several Questions made to him by the Right Hon. the Privy Council about several matters relating to the Mediterranean Squadron.

1. As to the first question and Sir George Rooke's Answer, we know of no Council of War nor any Consultation nor any Orders but the sailing Orders we had at the Isle of Wight, wherein was noted to us the signal for our parting with the Grand Fleet.

2. As to the second, we say that on the 5th of June, the day after our parting, we saw about 55 sail of ships at 8 o'clock in the morning, distance four or five leagues, and at 9 of the clock the same day we saw our Grand Fleet bearing N.N.E., and we believe that, had Sir George Rooke sent a man of war, he might have spoke with some of the said 55 sail, we not knowing what fleet they were.

3. To the third, we made Mount Cheego the 16th at 8 of the clock in the morning, being about 12 leagues to the northward of the South Cape, bearing east of us, at which time we were hauling into the shore.

4. To the fourth, we say we heard not of any ship that Sir George Rooke sent to any part of the coast of Portugal to gain intelligence.

5. To the fifth, we reply that the 16th day of June, being to the northward of the Cape, between 12 and 2 at noon we saw the enemy's scouts exchange broadsides with our scouts, and one of our scouts returned to the Admiral at 7 in the evening, who, we are informed, gave him notice that same time of their seeing eight or ten scouts of the enemy's, as to which we refer ourselves to Sir George's letter, published in the Gazette the 17th of July. And here we further say that whereas Sir George, having had so full an account of so many several scouts of the enemy's, ten in number, he ought to have borne an easy sail, or rather have lain by and sent to the shore for advice that night,

than to have made such a press sail as he did, for, if he had not split or handed his maintopsail about 10 at night, we must have been among the French Fleet before morning; and all that whole night we saw the French scouts making false fire and firing guns ahead of us.

6. We say the fireship was taken about 5 or 6 in the morning, and the Captain thereof being carried in a six-oar boat passed by one of our ships, and asking what news, the sitter of the boat answered that sometimes the French captain said the enemy was 17 and sometimes 70 sail of men of war. But one of the boat's crew told us at the same time that the Captain said, "I am a prisoner now, but you will be all prisoners before night," and that very morning we heard the Moors were examined as well as the Captain and Lieutenant, and they said it was the Grand Fleet of France. Captain Parsons, Captain of a store ship, being asked by Capt. Braddyll about 9 or 10 of the clock in the same day what news on board the Admiral, he answered there was a confusion aboard what to believe about the French. The Admiral would not believe there was above 18 sail of the enemy, and the rest merchant ships bound for Marseilles with Mons. Tourville, but the said Captain Parsons told Captain Braddyll that he told them that he had been at Marseilles oftener than any two Commanders in the fleet (to wit) twenty-two several voyages, and never saw six merchantmen bound from West France to Marseilles. Now about this time we saw about 80 sail of ships to the eastward of us, and we here desire it may be observed that Monsieur Tourville could not be thought to have been a convoy to a fleet of merchantmen, or that 8 or 10 scouts should be sent out by 17 or 18 sail of men of war.

7. The Portuguese vessel with provision went aboard the Admiral about 8 o'clock in the morning, the 17th of June, which vessel came first aboard Capt. Cotterell, and told him the enemy were about 130 sail, and that the enemy had 13 flags and broad pennants; and the said Captain Cotterell saw no provision on board the said boat, neither did they offer him any to sale, and we did not hear that the said boat was hooted at, or received any disgrace from any of our fleet.

8. As to this Article, we say that there were several buoys seen in Lagos Bay early in the morning, which discovered that there were great ships that cut from them. About 10 o'clock there were two French men of war about two leagues to the southward of us, which we conceive our men of war might easily have fetched up, if they had been sent after them.

9. To this we answer that Admiral Rooke did not, as we heard or saw, send ashore after he had intelligence from the fireship and Portuguese boat; but we say, had he sent a boat ashore any time between 4 o'clock and 10 that morning, he might have had news from the shore in two hours at most, being not two leagues from the shore and very calm sea.

10. To this we say that we could not imagine why Sir George should stand so far into the Bay, when 80 sail of the enemy were then discovered, and that he had not sent to shore to know the certainty whether they were a convoy of merchantmen or Tourville's fleet.

11. We had no orders in case of meeting with an enemy till we came to the Madeiras.

12. We know nothing of sending the *Chatham* to give the Rear-Admiral notice of his retreat, much less had any of us any orders what course to steer, neither did we know what course he would steer, he carrying no light, but pressing sail all night so much as he could bear, so that one of our men of war and some merchant ships lost their top-

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masts, and it was mere fortune we saw him in the morning; and we believe had he carried a light, the four ships that were sunk at Gibraltar, who were all with us before night, the next morning might have been with him. Several of our fleet besides them, that were also with us overnight, lost our fleet before next morning, and we conceive his orders to any of our ships to go to Cadiz was to expose them to eminent danger; and from 7 o'clock at night till next morning we saw but two or three of the French men of war, and if any of our ships had sailed by those false fires the French men of war made all night, they might have been, for ought they knew, taken by the said French men of war in the morning, and our fleet being at such a distance could not have relieved them.

Signed. Charles Cotterell, John Braddyll.

Endorsed in Mr. Bridgeman's hand: "Received Oct. 18, 1693," and in another hand, "Read at the Committee the 19th of October, 1693." *Numbered* No. 35.

(*f*)[43]. Paper entitled, "The Answer of me, John Willimott, Master of the *Popley* frigate, to the 12 Questions sent from the Committee of Lords concerning the Mediterranean Squadron under command of Sir George Rooke." [The Questions are as set out in (*f*)[41] above; the Answers to them are as follows:—

1. I do not know that any such Council or Consultation was held.
2. I do not know or remember we did meet any ship to that time.
3. The land we made was Mount Chigo, about 16 leagues distance, on the 16th June.
4. I do not know that Sir George Rooke did send any ship in.
5. Our scouts did discover the enemy's scouts, the 16th June, on this side the South Cape, but the number of them, and what signals were made by ours (I being astern of the Fleet), I know not.
6. The fireship was taken early in the morning on the 17th, but what account the Captain and Seamen gave of the French Fleet, I do not know.
7. I know nothing of any such boat's coming on board.
8. I do not remember that I saw any buoys in Lagos Bay.
9. I do not know that he did send any boat ashore for that purpose.
10. To this, I can give no reason why he did, but refer it to himself to give a reason.
11. The orders I had were ample enough for keeping company, but I had no fighting instructions, in case of opposition from the enemy, till our arrival at Madeiras.
12. The extraordinary consternation we were in at our retreat seemed that everyone did the best for himself he could, rather than follow any method, and hauling close upon a wind then seemed the most for our preservation, and the next morning such as did so gathered to our flag and so continued.

Note. The reason I can give no larger account of the 17th day's action was, because I stood off to two of the enemy's ships on fire in the offing, in hopes (my ship sailing well) to have surprised a boat seeming to go on shore from one of them, which proved to be a boat without any men in her, which I took and towed to the Fleet, by reason of which I was near a league to windward of the Fleet.

Signed. John Willimott.]

Endorsed in Mr. Bridgeman's hand: "Received Oct. 18, 1693. Read at the Committee the 19th." *Numbered* No. 36.

(*f*)[44]. Replies of Captain Saunders and Captain Jacobs to Sir George Rooke's Answers, as follows : 1693. No. 765.

"The several Replies and Answers of Robert Saunders and John Jacobs, Mariners, to the Answers of Sir George Rooke to several Questions made to him by the Right Hon. the Privy Council about several matters relating to the Mediterranean Squadron.

The several reply and answer of Robert Saunders.	The several reply and answer of John Jacobs.
1. As to the first question and Sir George Rooke's answer, he saith that he knoweth not whether or no there was any Council of War or Consultation held at Sir George Rooke's separation from the Grand Fleet.	1. As to the first question and Sir George Rooke's answer, he saith the same with the said Robert Saunders.
2. As to the second, he saith he saw 55 sail of ships on the 5th of June last, being the next day after the separation from the Grand Fleet, at 8 of the clock in the morning. They bore east of us, and at 9 of the clock the same day he saw the Grand Fleet, and they bore N.N.E., it being a foggy day, but cleared up at some times ; but saw no others till the 16th of June.	2. As to the second, he saith he saw no ships, as he knoweth of, from the time of the separation from the Grand Fleet until the 16th of June last.
3. As to the third, he saith we made Mount Chego the 16th of June at 8 o'clock in the morning, it bearing East. It is a high mountain that lies in the land about 15 leagues to the northward of the South Cape.	3. As to the third, he saith the same with the said Robert Saunders.
4. As to the fourth, he saith that he knoweth not of any ship Sir George Rooke sent to the coast of Portugal to gain intelligence of the enemy.	4. As to the fourth, he saith the same with the said Robert Saunders.
5. As to the fifth, he saith that he discovered the enemy's scouts the 16th of June, and about 1 of the clock in the afternoon he saw one of our scouts engaged with the enemy's scouts, and at 4 of the clock he saw five sail more of the enemy's scouts, which was to the southward of ours, standing in with the Cape. Then he saw one of our scouts ahead bring to and let fly his top-gallant sheets and lower his topsails. Soon after I saw one of our frigates, that was ahead, clap on a wind and ply up to windward to the Fleet, and about 7 o'clock was fair up with	5. As to the fifth, he saith that on the 16th of June last, about 1 of the clock in the afternoon, he saw two of the enemy's scouts.

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the Flag, and then the Flag bore away with an easy sail; but about 8 or 9 in the evening our Flag made sail, keeping the shore on board.

6. As to the sixth, he saith the French fireship was taken on the 17th of June last about 5 or 6 o'clock in the morning, and what information was given to Sir George Rooke he knoweth not; but he sent his boat on board the said fireship to learn what those ships were. The French seamen that remained on board told my mate it was Tourville with 17 sail of men of war and 50 sail of merchant ships.

6. As to the sixth, he saith the French fireship was taken the 17th of June last about 5 or 6 o'clock in the morning, but what information was given to Sir George Rooke he knoweth not.

7. As to the seventh, he saith that he saw no Portuguese boat go on board the Flag in Lagos Bay, nor heard anything of it at that time.

7. As to the seventh, he saith he knoweth not that any Portuguese boat went on board the Flag in Lagos Bay.

8. As to the eighth, he saith he saw no buoys in Lagos Bay.

8. As to the eighth, he saith he saw several buoys in Lagos Bay, but did not take much notice of them.

9. As to the ninth, he saith he knoweth not whether Sir George Rooke sent his boat ashore or not.

9. As to the ninth, he saith the same with the said Robert Saunders.

10. As to the tenth, he saith he knoweth not Sir George Rooke's reason for standing so far into Lagos Bay.

10. As to the tenth, he saith the same with the said Robert Saunders.

11. As to the eleventh, he saith he had no orders in case of meeting an enemy until he came to the Madeiras.

11. As to the eleventh, he saith he had no orders but sailing orders until the 17th of June last, at which time he had orders from Sir George Rooke to keep the line of battle.

12. As to the twelfth, he saith Sir George Rooke crowded off all night with a press sail and carried no light.

12. As to the twelfth, he saith the same with the said Robert Saunders.

Signed Rob. Saunders.

Signed John Jacobs, junr.

Dated Oct. the 18th 1693.

Endorsed in Mr. Bridgeman's hand: "Received Oct. 18, 1693," and in another hand: "Read Oct. 19, 1693, at the Committee." *Numbered* No. 37.

(*f*)[46]. Oct. 12. Letter from R. Bovett to the Lord President, as follows:—

My Lord,

There are underwritten the names of divers persons who are able to prove before your Lordship's Committee that the Captain of a French privateer did in the beginning of February last declare, that our

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Turkey fleet should not put to sea till the French Fleet were out; and that our Grand Fleet should go but 50 leagues beyond Ushant, with other material passages. I humbly beg your Lordships to order summons for them to attend your Lordships this day sevennight, because they are desirous to be called to it.

I am, my noble Lord,
Your Lordship's in all humble duty and obedience,
Signed, Ri. Bovett.

Robt. Chapman.
Henry Kidwell.
Mrs. Eliz. Taylor, of Greenwich.
Cæsar Brooke, at the 2 Pestles and Mortar in Jermyn Street.

I will take care to send the summons.

Dated this day.

Endorsed: Richard Bovett's Note of Witnesses to be summoned about the Turkey fleet. A note in the same endorsing hand adds, "3 Sugar Loaves in King Street." *Numbered* No. 38.

(*f*)[46]. Oct. 19. Information of Robert Chapman, of Greenwich, in the County of Kent, Mariner, taken before the Right Hon. the Lords of their Majesties' Privy Council, October the 19th, Anno 1693, as follows:—

That formerly belonging to their Majesties' ketch the *Scarborough*, was on the 12th day of January last past taken by the *St. Anthony* of Nantes, Capt. Roux, Commander of the Seamen and Capt. Linck of the Soldiers in the said ship, and that between the said 12th and 23rd of January, on which day we were retaken by their Majesties' ship *York*, Capt. Mees then Commanding, Capt. Linck did say unto Capt. Thomas Taylor, then lying in Capt. Roux's bed in the great cabin, that they were very well assured in France that our Turkey fleet would not sail from the Spithead, where they then were, until May or June, and that then our Grand Fleet would convoy them 50, 60 or 70 leagues from the land, and then leave them, and return home, and at that time the French Fleet would be at sea three weeks before us, and would be looking for the Turkey fleet off of Cape St. Vincent or thereabouts, and that, in his opinion, our Council were mightily overseen in not suffering our Turkey fleet to proceed on their voyage, when their merchants were so earnest and pressing for it; and that they, meaning the French, had no force at sea to oppose them. And further, the said Capt. Linck did then say, that there was a squadron of ships on purpose appointed to look out for our Canary fleet, and another for our Bilboa fleet, and that they had a particular account of the Commanders' names, ship's names, number of men and guns of all our men of war who were to convoy the said fleets, as also the value of each particular merchant man. There were present the Captain Roux, his two Lieutenants and two priests who did all avouch the same matters.

Signed, Robt. Chapman.

Endorsed: "Taken before the Lords of the Council this day upon oath." *Numbered* No. 39.

(*f*)[47]. Oct. 19. Information of Mr. Manning, as follows:—

"On Saturday last I came from Westminster about 12 of the clock, I met with Mr. Lownds in the Privy Garden, and as I was taking a turn or two with him, Col. Hughson saluted him and asked him what news, who replied he knew not any. Then I will tell you a piece of news of what passed at the Council between the Commissioners of the Admiralty and the Admirals; there being a dispute between

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Endorsed: Taken upon oath before the Lords of the Council this day." *Numbered* No. 40.

(*f*)[48]. Answers of the Admirals to the Questions proposed the 19th Oct. 1693, as follows:—

"Questions delivered us by Mr. Bridgeman, one of the Clerks of their Majesties' Most Hon. Privy Council at our attending the Council, Thursday the 19th of October 1693.

Question 1:—Why the Admirals were not ready to sail with the Fleet by the 16th of May, according to their letter of the 8th to Mr. Secretary Trenchard?

Answer 1:—From the time of our being honoured with the Commission of Admirals of the Fleet we applied ourselves heartily to the Service, and were not wanting by our advices and endeavours to contribute thereto what we could, by giving all such orders and directions as were within our province, and by the 16th of May the Fleet was in as much readiness as we could put it (though many accidents of weather and other disappointments often produce effects contrary to the judgments they have been well grounded on), but at that time we were under intimation from the Right Hon. Sir John Trenchard (in his Letters of the 9th and 10th of May) that we were to expect express Orders before our sailing; which Orders for our sailing (being dated the 19th May) arrived with us at St. Helens the 20th: though at that time several of the line of battle ships were under fitting, equipping and victualling, which we say we pressed every office to despatch as much as lay in us. The Council of War of the 8th of May, called on her Majesty's pleasure, signified to us by Sir John Trenchard's letter of the 3rd, (to consider how far an attempt on Brest was practicable, and what force of ships was requisite for such an undertaking), did advise, that, if they could have 75 sail of men of war (we wanting at that time 14 of the Dutch line of battle), in eight days it might be advisable to proceed to Brest, and there consider on such attempt, if her Majesty thought fit, and her Majesty, as Sir John Trenchard's letter of the 9th of May expresses, had thought of the readiest expedient for it, which was by ordering the Mediterranean Squadron, or as many as we should think requisite to join us for that service, which, as we have mentioned, we had only intimation and not order to proceed on.

Question 2:—Why they did not sail the 21st or 22nd of May, when they had told the Lords who went to Portsmouth that they should be ready to sail by the 19th at the furthest?

Answer 2:—On Saturday, the 20th of May, we received an Order from the Right Hon. the Lords of the Admiralty, dated the 19th of May, for "sailing with their Majesties' Fleet under our command, "together with the Squadron of their Majesties' ships under the com- "mand of Sir George Rooke and the Merchant ships under his convoy

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" bound to the Mediterranean." At which time Sir George Rooke was on board us, whom we desired to give us account of the readiness of his Squadron to proceed; and on the 22nd May he gave us an account, as we advised the Lords of the Admiralty in our letter of the same date, that he should be ready to sail on Tuesday night, and the reason he could not be ready before was the want of provisions. Upon receipt of the aforesaid Order of the Admiralty, we endeavoured to get all things in a posture for the speedy sailing of the Fleet, and on Monday the 22nd we called a Council of War to advise about our proceeding with the Fleet and Mediterranean Squadron, &c., at which Council of War it was resolved to sail on Wednesday, the 24th of May, if the wind was fair; after which we took the first opportunity of going to sea, as wind and weather would permit; and in our letters to the Admiralty of the 24th and 28th of May, we gave advice thereof, and the 30th, of our sailing, as we did also to Secretary Trenchard, of our being under sail in two letters dated the 30th of May, of which the latter was (in answer to his of the 29th), to give the reason for our not sailing sooner.

Question 3:—How soon after they came on board the Fleet, they took an account of what provisions were in the Fleet, and when they made any return of such account?

Answer 3:—In our letter of the 8th of May to the Lords of the Admiralty and the Right Hon. Sir John Trenchard, and in a letter of the 11th of the same to Sir John Trenchard, we gave account of the victualling as follows:—

May 8th. Extract from our letter to the Lords of the Admiralty:—

'Several ships that were fitted here, and some that came with us, want provisions, and the Victuallers' Agent cannot promise us to supply that want sooner than in seven days from the date of this.'

May 8th. Extract from our letter to Sir John Trenchard:—

'There is a considerable part of the victualling yet wanting in several ships, and the Victuallers' Agent cannot promise us to supply that want sooner than in seven days, admit the weather prove fair, and upon a more exact enquiry we find there will be a want of some bread.'

May 11th. Extract from our letter to Sir John Trenchard:—

'In our last we gave you an account how strong we were, and what want of provisions many ships of the Fleet were in. To the last, we can assure you, we have not been wanting in giving directions to the Victuallers' Agent to make at despatch imaginable, and to let us know in what time he could supply the wants of provisions, and to give it us under his hand, which we herein transmit to you.'

By letter of the 22nd of May we wrote to the Lords of the Admiralty in these words: 'As to beer, there is not more in the Fleet than nine weeks, and think it will be very necessary that a supply thereof be lodged at Dartmouth, Torr Bay being the place in all probability we shall oftenest come to.'

And in our letter of the 24th of May to the Lords of the Admiralty there is this following paragraph concerning the victualling:—

'In our letter of the 22nd we told you the Fleet was furnished with nine weeks' beer, the Victuallers' Agent giving us assurance it was so. But apprehending since, it was meant from the time of the Fleet's coming from the Nore, we have caused a more strict enquiry to be made as to that matter, and have here enclosed sent you an account how many days' beer is on board each ship from the 23rd instant, and doubt not but you will give strict charge to the Commissioners of the Victualling, that what beer and other provisions they have for the supply of the Fleet, may be hastened to Dartmouth.'

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Here follows a Copy of the said Account :—
'An account of what beer each ship in the Fleet hath on board.'

Ships' Names.	Days.	Ships' Names.	Days.
Britannia	52	*Mary*	59
Duke	50	*Grafton*	56
Rupert	45	*Royal William*	38
St. Michael	40	*Boyne*	50
Expedition	28	*Neptune*	64
St. Andrew	24	*Burford*	63
York	7	*London*	28
Royal Katherine	27	*Hampton Court*	41
Norfolk	35	*Elizabeth*	34
Albemarle	30	*Lenox*	60
Sovereign	40	*Captain*	50
Sandwich	101	*Warspite*	60
Stirling Castle	74	*Russell*	55
Suffolk	72	*Winchester*	27
Greenwich	33	*Restoration*	36
Kent	48	*Berwick*	32
Essex	62	*Devonshire*	50
Ossory	41	*Edgar*	34
Northumberland	84	*Vanguard*	37
Duchess	35	*Hope*	68
Cornwall	80		

We take leave to observe upon this Account that the quantity of beer on board each ship in the said Account (which are line of battle ships) for the days mentioned against each ship, amounts to 42 or 43 tuns and 140 gallons of beer, which for 21,540 men, being the sum of the number to each ship, makes, one with another, but 47⅔ days' beer for the whole.

Question 4 :—What provisions Sir George Rooke wanted, according to the account they gave in their letter to the Admiralty of the 22nd of May ?

Answer 4 :—We presume it concerns Sir George Rooke and not us, to give account of his Squadron's victualling, he not being under our command till the Lords of the Admiralty's Order of the 19th of May required his sailing with us; for in their letter of the 9th of May they acquainted us Sir George Rooke was appointed on a particular service, and not in the list given us of the ships appointed for the Main Fleet under our command.

Question 5 :—Whether, after the Admirals came to St. Helens, they gave any directions to the Agent of the Victuallers to put any stop to the victualling of Sir George Rooke's Squadron ?

Answer 5 :—The Right Hon. Sir John Trenchard, by his letters of the 3rd, 9th, and 10th of May, signifying her Majesty's pleasure that all imaginable despatch should be used in disposing matters to fit the Fleet under our command for sailing, we did direct Mr. Brandon, the Victuallers' Agent at Portsmouth (by letter of the 10th of May) to give all the despatch he could to complete the victualling the ships of the line of battle, and that there should be no delay therein ; but were so far from putting a stop to the victualling of Sir George Rooke's

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Squadron, that after he was ordered to sail with us, by our letter of the 20th of May to the said Mr. Brandon, we directed he should supply him with all expedition.

My Lords,

We have given your Lordships a large account of our proceedings, in execution of all Orders which we received from the Queen or the Lords of the Admiralty. We have also answered all such questions as your Lordships have proposed to us, not with art but with truth, and the honest plainness of seamen, of which we pray your Lordships to make a just and favourable construction. We have only this to add: we have acted with fidelity, and not only according to the best of our own skill, but have not made one step during this whole expedition but by the advice of Councils of War, which in prudence and generally by express order we were obliged to call and act accordingly. These advices have not been the effect of plurality of voices, but the joint and unanimous opinions of every Flag Officer, both English and Hollander, and yet we find upon discourse with most of them, that in every particular of those Resolutions we must according to circumstances, as they then appeared, have taken and pursued the same measures. We hear that upon the Account given to the States General, they have approved the conduct of their Admiral Almonde, though they lament the misfortune, as we ourselves do most heartily, that we have not been able to get an opportunity of doing that service to our country, which we wished and endeavoured; and we presume it is very hard and unequal that what is approved in Admiral Almonde, should be imputed to us as a crime, either as treachery or at least want of judgment; and if that must be, how zealous soever we have been for the public good, it is yet a greater misfortune that we three should be singled out from all other officers as the only guilty men, who cannot be separated from all the rest of the Flags in the opinions and results of the Councils of War, nor could we separate ourselves, if we had chanced to have differed in opinion, by overruling their advice, which by our orders almost in every case we were obliged to follow.

Signed, H. Killigrew.
R. Delavall.
Cloud. Shovell.

Endorsed: Received and read the 23rd Oct. 1693. *Numbered* No. 41.

(*f*) [49]. May 14. Copy of letter from Sir George Rooke to the Admirals and his order to the Victualler, as follows:—

Royal Oak at Spithead, this day.

Gentlemen,—I have this morning received orders from the Right Hon. the Commissioners of the Admiralty to take all possible care that the Squadron of their Majesties' ships bound to the Mediterranean be kept in a constant readiness to proceed on their voyage thither, so soon as orders shall be sent me for their so doing; and I am particularly directed to see that they be not in want either of provisions or stores necessary to proceed on the said service. And the Victuallers' Agent at Portsmouth having signified to me that he has got directions to make no progress in completing the Straits Squadron, till the ships of the Main Fleet be despatched; and we having, one with another, not above six weeks' beer, and in want of several other species of provisions, I do desire your orders to him, that he may forthwith complete us to at least two months' beer and the full proportion of dry provisions to eight months, that there may be no loss of time in prosecuting the voyage, when orders come to my hand. Which being all I have to

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By the Hon. Sir G. Rooke, Knt., &c.

You are hereby directed and required to supply their Majesties' ships of the Straits Squadron with a proportion of good and wholesome sea provisions, to complete their eight months, taking their Indents for the same, and continue so doing every fourteen days, so long as they shall stay here. For which this shall be your warrant. Dated on board their Majesties' ship *Royal Oak* at Spithead, the 6th of April, 1693. *Signed*, G. Rooke. *Addressed* to the Victuallers' Agent at Portsmouth.

Endorsed: Received 23 Oct. 1693. *Numbered* No. 42.

(*f*) [50]. Sir George Rooke's Answers to Capt. Cotterell's and Capt. Braddyll's Replies to his former Answers, as follows :—

"1. I do most humbly refer your Lordships to my former Answer to their first Question, and from thence to the first paragraph of the Admiralty Orders of the 20th of February, and to their Orders of the 18th and 7th of March, and to the Admirals of the Fleets' orders of the 26th of May.

2. They say that on the 5th of June, the day after our parting (I presume they mean, with our Grand Fleet, in which they are mistaken, for it was the day before our separation), they saw about 55 sail of ships; but they do not tell your Lordships where, or how they bore of us; but they give you a false bearing of our Grand Fleet, which that time bore N.E., and N.E. by N., nor were they ever to the westward of us from the time of our parting with them, till I joined them again in Torr Bay; and the 55 sail they speak of were on the S.S.E. of us. Now I think it would have been a very important errand to have sent a ship to speak with any of that fleet, in two respects: first, because I know they were our Bilboa ships, and secondly, because they were in sight of our Grand Fleet as well as ours.

3. Mount Chegoe is a high land over the South Cape, by which the Cape is known far off at sea, as Cape Traflagar is by the high land over it, and several other capes and headlands in the world are; so that I rather chose to express it by the name of the South Cape, presuming it would be better understood; of which it being impossible a seaman should be ignorant, these gentlemen do themselves no great right in making the objection.

4. I did actually send the *Lark* to Lagos Bay, and I cannot think it a criminal omission in me, that I did not send the Captain to Captains Cotterell and Braddyll, to know what service they had particularly to command him.

5. I did not, in my letter published in the Gazette on the 17th of July, call those 8 or 10 ships our scouts saw to leeward of the South Cape on the 16th of June in the evening, the enemy's scouts, presuming that number does more properly fall under the denomination of a squadron; nor did we know at that time but they were their whole squadron. And whether my prosecuting the resolution of the Council of War of that evening, or my acting as those two gentlemen presume to tell your Lordships I ought to have done, would have been most justifiable, I do most humbly refer to your Lordships' consideration upon the rules and discipline of war, which rules are so well known that they will sufficiently justify my part in this matter. And what they inform you of my shortening sail that night is a mistake, for at the same time that I handed my main topsail, I set my mainsail, which was equivalent to it.

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6. I do most humbly conceive my former answer to the Sixth Question, and my reference from thence, is what may be requisite to this Reply; only I must presume to assure your Lordships I never heard of what the sitter in the boat said to Capt. Braddyll till he told it at Council Table, nor of the examination of the Moors, as he informs you; but if these, or any other circumstances had gained a belief with him and any two or three of the masters of the merchantmen, that it was the enemy's whole fleet, they might, I think with much greater respect, have advised me of it at that time, than to asperse and persecute me with so much malice as they do now. As for what they urge further, I shall only say, that the appearances by which I was induced to believe it was only a squadron of the French Fleet were such, that, though I am very sorry for what has happened, yet I am not ashamed to have been deceived by them.

7. Capt. Cotterell tells your Lordships the Portuguese vessel with provisions went aboard the Admiral about 8 o'clock in the morning, and that the said vessel had no provisions in her, as he saw. I do not remember that ever I said that boat had any provisions in her, though I judge she had what such small bum-boats generally bring off to ships, because my servants bought several sorts of fruit from her for my use; and for what intelligence the said men gave Capt. Cotterell, I was, till I came to this town, altogether a stranger to; but for the information I received from them, I must, according to my former answer, refer your Lordships to Capt. Martin, who took their examination; and for what I have said of their being hooted at from some of the ships, I also say again and aver it for a certain truth.

8. I do most humbly refer your Lordships to my former Answer to the Eighth Question, to which I think myself obliged to make some reply to the charge of my not sending ships after those two of the enemy they mention, it not being reasonable to believe that, had our ships sailed as much better than theirs, as they did generally worse, and could have fetched them up, but they would have been sustained by some others of their ships, who lay straggling a small distance, one ahead of another, home to their body, and there was not any reasonable gale of wind for a chase till about 11 o'clock, at which time they, as well as we, put the signals abroad for the line of battle.

9 and 10. I do humbly refer your Lordships to my former Answers to these Questions, and to the Resolution of the Council of War on the 16th of June,* to which I beg leave to observe to your Lordships that the two hours they allow it would have taken to send a boat ashore, though it could not have been done in twice that time, would have been a very sensible loss to us, either in pursuing the enemy as a squadron, or in going from them as their main fleet.

11. I have been a Flag Officer in the fleet these four years, and every year except this last that I was on a separate service, I have known the Admiral, from the common accidents of tacking and working a fleet, to observe new instructions and orders necessary to be added to the former, and have dispensed them accordingly for the service; but I have not known the want of such orders in the preceding years have been charged as faults in the preceding Admiral; and if I did observe in this service an additional instruction might be advantageous for them, in case of meeting an enemy hereafter, and imparted it to them for their use, I do not see any reason it should be charged upon me as a crime; for if I had omitted the distribution of it to them, their capacities would not have discovered the want of it. But amongst such

* *See* (*f*)[21].

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a number of people concerned, there will always be some who, as they will be little sensible of the reasons of orders when they are given, so they will be very industrious to improve everything to the prejudice of those who are to conduct them.

12. That I did send the *Chatham* to give the Rear-Admiral notice of my intended retreat, and to give orders to his division for that purpose, is a most certain truth; but these gentlemen telling your Lordships they know nothing of it, does not at all affect me; and my standing off all night the same course I did before it was dark, is a plain demonstration I did not intend to leave the fleet; but if I had altered my course in the night without the usual signals, they might with some reason have said the ships who left us had lost company by my ill conduct; but I think there is no room for any reflection on me upon that misfortune; and since these gentlemen are pleased to say my ordering part of the fleet to Cadiz was to expose them to imminent danger, I would be glad to know how they could possibly have directed a better course for their security; and as they have been very earnest to render my not carrying lights a crime, so they would undoubtedly, and with much more reason, have made use of the contrary to my prejudice; the carrying of lights in such circumstances being, what has ever been, impracticable, and was at this time more particularly unreasonable.

To this I must humbly beg leave to observe to your Lordships that the men who have given these and the former Informations are none of them employed in the Turkey Company's service, so that if I may presume, I would humbly pray that the accounts and observations of the Commanders of the Turkey ships may likewise be demanded; for though they are all equally strangers to me, yet they are generally men of a clear reputation, and are esteemed men of sense and integrity, which some of those whose informations you have, are of a quite contrary character.

Signed, G. Rooke. *Dated*, October the 23rd, 1693.

Endorsed: Received and read 23 Oct. 1693. *Numbered* No. 43.

(*f*)[51]. Oct. 23. Letter from Sir George Rooke to Mr. Secretary Trenchard, as follows:— London, this day.

Sir,—The lameness I gave you an account of in my last in one of my feet, I am afraid I must now call the gout, it having seized the other also, which does wholly incapacitate me from waiting on the Lords at the Council Chamber this evening, according to their Lordships' Order: but I do herewith send you my answers to Capt. Cotterell's and Capt. Braddyll's replies, in the best manner I could form them under the pain and anguish of my distemper; which is all at present from, &c.

Signed, G. Rooke.

Endorsed: Received and read, 23 Oct. 1693. *Numbered* No. 44.

(*f*)[52]. Oct. 24th. Order of the Queen in Council referring the Turkey Company's Petition to the Council, as follows:—

At the Court at Whitehall, this day.
Present:
The Queen's Most Excellent Majesty in Council.

Whereas by Orders of this Board of the 27th of July and 10th of August last, the Petition of the Levant Company, presented to her Majesty in Council, was referred to the consideration of the Right Hon. the Lords of the Committee for Trade and Plantations. It is this day thought fit, and accordingly ordered by her Majesty in Council, that the consideration of the said Petition and all matters relating thereunto, and now depending before the said Committee, be

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and they are hereby referred to the whole Privy Council, who are to meet as a Council to-morrow at four in the afternoon, and so from time to time as they shall think fit concerning the said matters.

Signed, Wm. Bridgeman.

Endorsed: Received the 26th. *Numbered* No. 45.

(*f*)[53]. Oct. 25th. Answer of the Admirals to a Question given to them by order of the Committee of the 23rd of October, as follows :—

Here follows a Question sent us the 23rd of October (late) at night by Mr. Thomas Povey, by Command of the Right Hon. the Lords of the Committee for examining the Petition of the Turkey Company, with our Answer thereto.

Question: Who it was that was employed by you as Secretary to draw up the Resolution of the Council of War of the 22nd of May last ?

Answer: Mr. Abraham Anselme was employed as our Secretary at the Council of War of the 22nd of May last, and he drew up the Resolution thereof, according to the sense and determinate judgments of ourselves and the other Flag Officers (as well English as Dutch), who were present at the said Council of War, which (as is practised at such meetings) was read to, and subscribed by them before they parted.

Signed, H. Killigrew.
R. Delavall.
Cloud. Shovell.

Endorsed: 26 Oct. 1693. Read the same day, being the 26th Oct. *Numbered* No. 46.

(*f*)[54]. May 22. Copy of letter of this day from the Admirals to the Admiralty Board, as follows :—

Right Honble.—We have received yours of the 16th, and likewise three letters, together with an Order of the 17th for paying the French men their money, which is done, *as also your Order of the 19th for sailing, which shall be put in execution.*

As to that part of your letter of the 16th, wherein you desire that we send you the names of those persons that did propose to the Officers of the yard the making of a narrow search into the defects of the ships, we do think that we ought to be excused from naming any such Officers' names, believing it will little advance their Majesties' service. We have great reason to believe them, because we find several more ships in the Fleet but in an indifferent condition, which had been much better if the Officers had been hearkened to, when they gave in the defects of their ships, as we find too apparent by the *Victory*, the carpenter of the said ship having given in a particular of her defects to Mr. Leigh. We observe, that the most material he took no notice of, which was the beach plank and iron work.

We take notice of what you say, that we have all the fireships designed, except three, by which we cannot otherwise conclude than that you think we are sufficiently supplied ; but we cannot be of that opinion.

As for the brigantines and shallops, we have no news of them.

The *Goodwin Prize* is cleaning.

We are very much surprised at what you write us concerning Capt. Moody, Commander of the *Wolf* hired ship, telling us that at our desire he has been kept from going a foreign voyage in order to his serving in the Fleet. We must tell you we do not remember anything of this matter.

We shall, according to your desire, give you an account of Lieut. Ramsey, so soon as may be, of his taking the arms from the privateer.

1693. — No. 765. In answer to one of yours of the 17th, wherein you desire a particular information of the loss of the *Windsor Castle*, we do not doubt but you have, or will have, before this comes to your hands, the result of the Court-martial from the Judge Advocate

We send Rear-Admiral Aylmer and Rear-Admiral Mitchell each of them a copy of your letter, and herewith you have their answers. We find by that of Rear-Admiral Aylmer's that he refers us to the two tenders that he ordered to lie upon the Southsand Head, which tenders do not appear in the Fleet; so soon as they shall, we shall be able to give you a better account.

For the two fireships wanting of men, that are at Plymouth, the Captains have given us no account of it, else we had found some means to have supplied them before now. We will take them with us, as we pass by Plymouth.

We shall make an enquiry after Raynard Isaacson, and if he appears the person mentioned in your letter, he shall be discharged.

When we received your Order of the 19th, Sir Geo. Rooke was on board, whom we immediately desired to give us an account what readiness his Squadron was in to proceed on his voyage. Accordingly this morning he gave us an account he should be ready to sail on Tuesday night. The reason why he could not be ready before is the want of provisions.

On Wednesday morning we intend to sail, wind and weather permitting.

We have sent you the rendezvous that we have resolved on this day at a Council of War, that you may be the better able to send such ships to us as belong to the Fleet.

Here is also an account of Capt. Cornwall's ketch, which was ordered to lie upon the Southsand Head, when the great ships came from the Nore to the Downs.

The bedding intended for the soldiers is not yet come to us. Here are 500 beds come to Portsmouth, which we rather believe are for the seamen, Capt. Clements having 100 appointed to him for the use of his ship's company, and other ships have received some for the same purpose by Sir William Gore's direction. We apprehend it will be for the Service that you would acquaint us how the bedding is to be disposed of, and how charged when come.

As near as we can judge, there is not in the ships of the line of battle more than nine weeks' beer at whole allowance, therefore thought fit to acquaint you that you may order a timely supply to be made and lodged at Dartmouth, which will be more within our reach than Plymouth, Torbay being the most probable place the Fleet will come to water at.

We remain your most humble servants,

Signed, H. Killigrew.
R. Delavall.
Cloud. Shovell.

Dated May 22nd, 1693. St. Helens.

P.S.—In case of separation by bad weather or any other unavoidable accident, with the wind westerly and the Fleet to the eastward of Torbay, the place of rendezvous is St. Helens. If with the wind westerly and we to the westward of the Berry Head, then Torbay is the place of rendezvous; and if the wind be easterly, then 30 leagues W.S.W. off of Ushant is the place of rendezvous.

Endorsed: Read 2 Nov. 1693; received then from my Lord Falkland. *Numbered* No. 47. [This letter appears in (*e*)[1] with some variations.]

(*f*)[55]. May 23. Copy letter from the Commissioners of the Admiralty to the Admirals of the Fleet, as follows :—

1698. — No. 765.

Gentlemen,

We have received your letter of the 18th instant, and as to what you write therein, touching the consulting the Chief Land Officer on board their Majesties' ships where soldiers are, concerning the punishment which any of the soldiers may deserve, we do acquaint you that the directions sent to you therein by this Board was pursuant to the commmands we received from her Majesty, and the intention of the said Order is, that when any soldier shall commit an offence which may deserve public punishment, the Chief Land Officer on board the ship where he serves shall have notice thereof, and what kind of punishment is proper to be inflicted on him for the same, and it was judged that this method might prevent any dispute or difference between the seamen and soldiers, and not cause the same, as you inform us it already has; however, if you have anything particularly to object against the same, we desire you will let us know it, that it may be laid before the Council.

It being necessary that such Resolutions as have, or shall be from time to time taken at Councils of War, for the proceedings of the Fleet, should be transmitted to this Board, we desire you will send to us as soon as may be, such Resolutions as have been already taken, and that you will from time to time transmit hither the result of such Councils of War as shall be held for the future, together with such other accounts of your proceedings as may be necessary for our information touching the affairs of the Fleet.*

The Commissioners for Sick and Wounded have been with us this morning and acquainted us, that they have given in frequent memorials to the Treasury for money, as well as to pay off their arrears as to enable them to carry on the service under their care, and our endeavours neither have nor shall be wanting towards their obtaining the same. In the meantime they have taken what care they possibly can, and so soon as money is supplied, one of their number will be appointed to take care of such sick and wounded men as shall be put on shore from the Fleet.

We are, &c.

Signed, Falkland,
J. Lowther,
Robt. Austen.

Dated Admiralty Office, this day. *Endorsed*: A Clause read the 2nd Nov. 1693. Received then from Lord Falkland. *Numbered* No. 48.

(*f*)[56]. May 24. Copy of letter from the Admirals to the Admiralty Board, as follows:—

Right Hon.

In our letter of the 22nd instant we told you the Fleet was furnished with nine weeks' beer, the Victuallers giving us assurance it was so; but apprehending since, it was meant from the time of the Fleet's coming from the Nore, *we have caused a more strict enquiry to be made as to that matter*, and have here enclosed sent you an account how many days' beer there is on board each ship from the 23rd inst., and doubt not but you will give strict charge to the Commissioners of the Victualling that what beer and other provisions they have for the supply of the Fleet may be hastened to Dartmouth.

Your Order for the *Speedwell* fireship's proceeding with Sir George Rooke, in the room of the *St. Vincent*, we have complied with, but must also let you know, that we do not think we have a sufficient

* This Clause is given also as an Extract in (*d*) above, XIII. (2).

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The Fleet had sailed this day, pursuant to your Orders and the Resolution of the Council of War, but it has been for the most part calm, and the little air of wind that has been to-day, was at S.W. We intend to move further out by the first opportunity, that those at Spithead may get farther out, and be in a better readiness to sail, when a wind shall offer.

There is yet one-third of the bedding, designed for the soldiers, not come. Such as is, has been proportionably disposed to each regiment, though we are in the dark how to give orders for the charging them.

None of the brigantines are come to us, nor the *Fubbs* yacht. *The* Carlisle *is gone for Plymouth with the necessary orders for the men of war and merchantmen there, and to cruise off the Start.*

Capt. Mason having quitted, we judged it for the Service to remove Capt. Billop into the *Victory*, Capt. Jennings into the *London*, with Sir John Ashby, Capt. Jones into the *Norfolk*, Capt. Meese into the *Ossory*, Capt. Killegrew into the *York*, and Capt. Whetstone into the *Crown*.

We remain your most humble servants,

Signed, H. Killigrew.
R. Delavall.
Cloud. Shovell.

Dated from on board the *Britannia* at St. Helens, this day. *Endorsed* in Mr. Bridgeman's hand. Received from my L^d^. *Falk*land Nov. 2nd 1693, and read. *Numbered* No 49. [A slightly different version appears in (*e*)[1] above.]

(*f*)[57]. May 26. Copy of letter from same to same, as follows :—

Right Honble.

We received yours of the 23rd instant, whereto we have nothing to reply more than what we have already writ to you upon that subject.

This day we ordered the *Plymouth*, *Crown* and *Adventure* to repair to the Fleet, if the wind continues westerly, but in case it happens to be easterly, they are to remain at Plymouth, in order to join the Fleet upon our appearing off of that place. We have likewise ordered Capt. Leake to bring the fireships which are there, and to assist them with as many men from the ships under his command, as will enable them to sail in company with him.

We have also sent orders to the Mountagu *and* Rochester *to repair to their former stations, and to cruise there till the 10th of the next month.*

It appearing by a survey that the *St. Vincent* fireship is not fit for service, till she be docked, we have ordered her into Portsmouth harbour to be repaired.

We understand that the money will not hold out to pay all the ships of the line of battle, wherewith we think fit to acquaint you, that a speedy supply may be ordered. We remain, &c. *Signed* like preceding. *Dated* from on board the *Britannia* at St. Helens this day.

P.S.—It continues still very little wind, and that is westerly. *Endorsed* in Mr. Bridgeman's hand. Receive dfrom my L^d^. Falkland, Nov. 2nd '93, and read then. *Numbered* No. 50. [Appears in (*e*)[1] above, without the Postscript.

(*f*)[58]. May 28. Copy of letter from same to same, as follows :—

R^t^. Honble.

We received yours of the 24th inst., and have only to acquaint you, that yesterday the *Swift* and *Reserve*, together with the *Fubbs* yacht, brigantines and well-boats arrived at the Fleet, and there having been

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no directions given to us for the disposal of the well-boats, we have ordered them into Portsmouth harbour.

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As to the difference between Capt. Wright and Mr. Stock of Deal, we here enclose you Capt. Wright's answer to the said Stock's complaint.

You will also herewith receive the Master of the ketch belonging to the *Neptune* his account, touching his being ordered to ride on the Southsand Head.

Here is little or no beer come to the Fleet in this Convoy.

We yesterday unmoored, in hopes of an opportunity of going to sea, but the wind came westerly again, so that we were forced to ride fast.

We doubt not but Capt. Foulks has given you an account of his cruise, and of his having taken a French merchantman from Marseilles, bound to Havre-de-Grace, as also of a great number of ships laden with corn, in the East Country, bound for France, which is what offers at present from, &c. *Signed*, H. Killigrew; R. Delavall. *Dated* this day, St. Helens.

P.S.—It is not improbable but if there were two ships ordered to cruise to the eastward of Dunkirk but these supplies might be prevented. *Endorsed*, Received from L[d]. Falkland, and read 2 Nov. '93. *Numbered* No. 51. [This letter, without the postscript, appears in (*e*)[1] above.]

(*f*)[59]. May 30. Copy of letter from same to same, as follows :—

Rt. Honble.

Their Majesties' ships mentioned in the margin [*Victory* and *Portsmouth*] came out of Portsmouth harbour the 29th instant, and we hope will not be long ere they be in a condition to join the Fleet.

We must again remind you of beer for the Fleet, in regard that there is not above 200 tuns come from the Downs with the *Reserve*, *insomuch that it is but with great difficulty we can put the cruisers in a tolerable condition of going to sea.*

We also think fit to acquaint you with the *Portland's* returning to the Downs without stopping here or coming near us, by which means the empty Victuallers, tenders discharged, and several other merchantmen are forced to stay here, nor are the seamen returned which were taken out of the tenders belonging to the ships of the line of battle.

Yesterday we received a letter from one Mr. Meestery, signifying to us the charge and command he has of several vessels with machines, of which we have had no information from your Lordships, nor do we know the service they are intended for.

The wind is now at N.E. and by E., and we intend to sail this day, and doubt not but Sir George Rooke, with his Squadron and merchantmen under his convoy will sail with us.

We remain, &c.

Signed, H. Killigrew,
R. Delavall,
Cloud. Shovell.

Dated under sail, this day. *Endorsed* like preceding. *Numbered* No. 52. [Appears in (*e*)[1] above.]

(*f*)[60]. Concluding portion of a letter from Sir Ja. Houblon to Mr. War, as follows :—

* * * * I thought it my duty to let you know this, that you might, if you judged it useful, impart it to my Lord Nottingham, to confirm the better intelligence my Lord hath of the designs of the Squadron. Excuse the liberty I take with you, being, Sir,

Your most humble servant,

Signed, Ja. Houblon.

Dated Winchester-street, London, 16th March 1692.

1693. — No. 765. *Endorsed*: Sr Ja. Hoskins. March 16. 1692–3. Then "16 Mar. 93. Mr. James Hodgson's letter to Mr. War to be imparted to my Lord Nottingham, touching D'Estree's Squadron. Read 4 Nov. 1693 at Com^tee." *Numbered* No. 53. Received from Mr. Coolin* 5 Jan. 1693. J. Walker. N. 23. All that is left of the address is "For Mr. * * * * * * at my L^d. Nott."

(*g*). Jan. 8. 1693–4. Papers received from the Council Office this day, in continuation of those received on the 5th [*f*] above], some being numbered consecutively with the latter. The papers are as follows:—

(*g*).[1] List of papers relating to the Fleet and the Straits Squadron, *numbered* from 1 to 17, and *endorsed* as received from the L. President, Jan. 8. 1693–4, B: A. The List is as follows:—

Bundle A.

Paper 1. Order of 6 Nov. 1693 for examining the delay of the Straits Squadron.

„ 2. Copy of a letter of 6 May from Sir George Rooke, with an Account of the wants of the Squadron.

„ 3. Account of victualling Sir George Rooke's Squadron.

„ 4. Papers delivered by the Victuallers of the Navy of 10 Nov. 1693, being an extract of their letter of 5 Oct.

„ 5. Extract of a paper from the Commissioners of the Navy to the Lords of the Admiralty, relating to the Victualling.

„ 6. Memorial of the Victuallers of the Navy, with copies of the Accounts and Clerk of the Issues' letter, and of a Memorial of 18 April.

„ 7. Copy of a letter of 16 Oct. from the Navy Board to the Commissioners of the Admiralty, concerning the Victualling of the Navy.

„ 8. Letter from the Commissioners for Victualling the Navy, with the affidavit of their Agent at Portsmouth, and a copy and extract of his letters of the 17th and 21st November.

„ 9. Copy of a letter and extract of another from the Agent of the Victuallers at Portsmouth, dated the 17th and 21st November, 1693.

„ 10. Account of vessels laden with provisions by the Victuallers of the Navy from London, returned upon oath from their Agent at Portsmouth, 16 Nov. 1693.

„ 11. Mr. Sotherne's letter of 28 Nov. 1693, with the copies of Returns from the Admirals about Victuals for the Fleet.

„ 12. Account of beer on board the Fleet the 24th May 1693. Received from the Admiralty.

„ 13. Account of men and provisions on board the Fleet the 12th June, 1693. Received from the Admiralty.

„ 14. Account of provisions on board the Fleet the 22nd June, 1693. Received from the Admiralty.

„ 15. Account of provisions arrived in the Victualling Ships at Portsmouth, May, 1693, before the Fleet sailed. Received from the Commissioners for Victualling the Navy.

„ 16. Abstract of provisions on board the ships of the line of battle the 6th June, 1693, and for how many days. Received from the Commissioners for Victualling the Navy.

* Richard Coleing, a Clerk of the Council.

Paper 17. Copy of Observations presented by the Victuallers to the House of Commons the 27th November. Received from the Commissioners.

$(g)^3$. Duplicate of preceding List. *Endorsed* B : A.

$(g)^3$. Nov. 6. Order of King in Council for examining the delay of the Straits Squadron. The Council to meet to examine and report why the going out of the Main Fleet and the Mediterranean Squadron was so long delayed, and, in order thereunto, to send for the Lords of the Admiralty, the late Admirals of the Fleet and the Victualling Commissioners, and such other persons as they shall think fit. *Signed*, W. Bridgeman. *Dated* at the Court at Kensinton, this day. *Endorsed:* Presented 10 Nov. 1693. *Numbered* No. 54, B : A, P : 1.

$(g)^4$. May 6. Copy of Letter from Sir G. Rooke to Mr. Brandon.

Royal Oak, this day.

Sir,—I do herewith send you the Account you desired, and am informed there is a great deal of provisions sold by the men, particularly bread, the pursers not giving them so good a price as they can otherwise procure for it. I am, &c., *Signed*, G. Rooke. *Dated:* Royal Oak, 6 May 1693. Subjoined is a table showing that to complete 8 months' provision the *Monmouth* wants a month's provisions of all species, the *Lark* and *Despatch*, brigantine, two months, and that the remaining 6 ships in the List, viz., *Lion*, *Princess Ann*, *Loyal Merchant*, *Smyrna Factor*, *Salamander*, and *St. Vincent*, fireship, want, between them, as follows :—

Beer - -	18 tuns.	Pease -	3 bushels.
Bread - -	30,045 lbs.	Oatmeal -	310 d°
Beef - -	533 pieces.	Butter -	945 lbs.
Pork - -	787 d°	Cheese -	2,290 lbs.

Signed, G. Rooke. *Noted*: A true Copy, Wm. Brandon. *Endorsed:* Copy of Mr. Brandon's letter from Sir George Rooke, with a particular of the wants of that Squadron. Read 10 Nov. 1693. *Numbered* No. 55. B : A, P : 2.

$(g)^5$. Account of the Victualling of Sir G. Rooke's Squadron. This paper gives, in five columns, the ships' names, the places of victualling, the dates of the respective Indents, the number of days' and the number of months' provisions of the following ships, the number of months only being given here after each ship :—

Bredah - -	13	*Woolwich* - -	16	——— - -	6	*Sheerness* - -	12
Monmouth - -	12¾	*Lumley Castle* -	13	*Princess Ann* -	12½	*Lark* - - -	13
Monck - - -	11	*Chatham* - -	13	*Loyal Merchant* -	8¾	*Vulture*, fireship	14
Lion - - -	13	*Kingfisher* - -	11	*Prudence* - -	8	*Speedwell*, fireship	12
Royal Oak - -	13½	*Tiger Prize* - -	8	*Smyrna Factor* -	12½	*St. Vincent* - -	12½

Endorsed: Read 10 Nov. 1693. *Numbered* No. 56. B : A, P : 3.

$(g)^6$. Oct. 5. Letter from the Victuallers of the Navy, as follows :—

" Gentlemen,

Par. i.† We received yours of the 28th September and the 29th ditto, together with copy of one from the Right Hon. the Lords of the Admiralty, dated the 27th, requiring us to give their Lordships an account how their several Orders have been complied with for the victualling of the Main Fleet this year. We have thereupon inspected the several Orders, the first of which is dated the 6th January,

† The Paragraphs are here numbered, to avoid reprinting in $(g)^{11}$ below, where they are dealt with *seriatim* in the Remarks of the Navy Board.

1693. No. 765. including 6 first rates, 10 second rates, whereof one was lost, and 8 third rates, whereof two were at Portsmouth, the 23rd March. Another Order for 17, whereof only two at London, the rest at Portsmouth. We send your Honours herewith an account how these ships have been victualled. Most of them have had a greater proportion of beer than mentioned in the Orders of 8 and 10 weeks. We, observing that the *St. Andrew* had not the full, we examined our officers about it, who give us an account that the 14th February 34 tuns was sent, but they could not take it in, and afterwards the 4th March we sent 24 tuns more, which was also returned.

Par. ii. The ships victualled here at London might have had what provisions they would, except butter, cheese and oatmeal. Of the two first sorts it hath been usual to load but one half, both because at that season there can be none had but old butter, and for supply of the butter there was a vessel with 44,656 lbs. of butter, that lay at Falmouth and might have been at Portsmouth long before the Fleet sailed, had there been convoy, and the convoy taken due care of her; and as for these, there is a want of conveniency in the ships to lay the same, so that great quantities thereof is usually spoiled, if the whole be put on board at once, and for oatmeal the whole quantity was not procurable, and very seldom do the seamen spend the one-half of what is appointed.

Par. iii. By request of the Commanders, several of the Pursers received money for some days' provisions, the Captains alleging their Mess doth not eat of the seamen's provisions, but is provided for by themselves, and this having been practised formerly we could not deny.

Par. iv. Your Honours know also that the Pursers issue but 14 ounces instead of 16, and therefore that it hath been ordinary for them to leave some part of their provisions on that account; but your Honours, on examining the accounts, will find there hath been very inconsiderable this year of that kind, in comparison of what hath been formerly, and what hath been hath been without our allowance.

Par. v. The Pursers likewise, when they have old credits remaining in their hands, do sometimes leave part of their present victualling and supply themselves on those credits at any victualling port where they come, and this your Honours will find by the account hath been the case of some of them.

Par. vi. The ships that went from hence were maintained in petty warrant till the 23rd April, when they sailed from the Nore, whereof we had no timely signification, so that great quantities of petty warrant provisions that were sent down to them, was returned back to very considerable loss.

Par. vii. At Portsmouth from September there lay the West India Fleet, and then the Straits Fleet, besides a great number of the Grand Fleet, and a squadron victualled out for two months by the first of February, so that at that port all provisions were required faster than they could be procured, but as they were sent from hence, which depended upon wind and convoy, this we often represented to the Right Hon. the Lords of the Admiralty by several Memorials and letters to Mr. Sothern of the 13th and 24th December, of the 3th, 17th, and 21st January, and to your Honours by ours of the 31st December and 24th January, and notwithstanding our representation, as before mentioned, that provisions were not to be had at Portsmouth, many ships, which might have been victualled in this River and in the Downs, were sent from hence to be victualled and completed there; which may serve to answer the first part of your Honours' letter of the 13th April. And as to the other part of the said letter, that such

ships of the Main Fleet that had spent on their sea provisions, should be forthwith recruited therewith, the whole fleet being sent to Portsmouth, and the Straits Fleet lying there also with a very great fleet of merchantmen, that Order could not be complied with faster than provisions could be sent from hence, wherein all possible diligence was used on our part.

Par. viii. For supply of what the ships had short, that went from hence, there went along with them 13 victualling ships with 1,184 tuns of beer and other provisions, besides which there were several ships in the River laden, but could not get down the River by reason of the strong easterly winds, and the beer and other provisions in those 13 ships, intended to have sailed with the Fleet, were made use of at Portsmouth for the reason aforesaid, before the Fleet sailed.

Par. ix. While the Fleet lay at Portsmouth, most of the merchant ships there were supplied with provisions out of their Majesties' ships, which could not but be very prejudicial to the service, their Majesties' ships being outward bound and provisions so scarce and difficult to be procured; of which we made complaint, but nothing was done to prevent the same.

Par. x. This year all sorts of provisions have been exceeding dear and scarce, and for want of money in the proper seasons so timely and plentiful provision could not be made as otherwise might have been, which hath been frequently represented to the Right Hon. the Lords of the Admiralty, and your Honours, by the memorials and letters before mentioned, and also to the Right Hon. the Lords of their Majesties' Treasury by Memorials of the 24th January and several other Memorials since, also to the Right Hon. the Lords Committee of their Majesties' Council the 18th April.

Par. xi. We are very well assured that if all things be duly considered, vizt., the great debt on the Victualling Office contracted in former years, the dearness and scarcity of provisions this year, the shortness and unseasonableness of supplies of money, and the extraordinary victual required for the West India and Straits Fleet and other services, it will rather appear that we have done extraordinary service than that we are blameable for any defects which it was not in our power to prevent.

Par. xii. And, after all, that which was the great complaint was the want of beer, and yet the Fleet was so far supplied, that your Honours, by your letter of the 23rd May, acquaint us, that the Admirals, by their letter to the Right Hon. the Lords of the Admiralty of the 22nd did write that there was not more than nine weeks' beer in the Fleet at whole allowance; and we are sure there was some quantities of beer delivered to the Fleet after that, before they sailed; but supposing there was no more, that serves for 63 days at full allowance, and it was, as we understand, but 15 days after that they parted with the Straits Fleet, at which time they must then have 48 days' beer at whole allowance, which, as far as we can learn by men that have used the Southern trade, is above double the quantity necessary for a voyage to Spain.

Par. xiii. When we attended the Right Hon. the Lords Committee of the Council the 29th August, where the Lords of the Admiralty were present, we understood their Lordships required of us an account how all the ships this year had been victualled, what was delivered on board in specie, what provisions credit was given for, and what was paid the Pursers in money for any provisions they took short. We did

1693. — No. 765. thereupon examine all our officers and their books, and have caused such an account to be drawn out, which we have transmitted to the Right Hon. Sir John Trenchard, Secretary of State, to lay before their Lordships, together with accounts of the several credits that have been supplied before the Fleets sailed, and what provisions have been sent from hence to Portsmouth, as also what hath been, since the Fleet's sailing, sent by victualling ships; as also what money hath been received and assigned for the victualling service this year, with the times when the same was so received or assigned; and also an account of the state of the victualling to the 11th September, to which time the said account was calculated. If your Honours or the Right Hon. the Lords of the Admiralty find anything further necessary for yours or their Lordships' satisfaction than in the accounts sent herewith, they may by these accounts, which we suppose will be sent to them, be satisfied in everything; for we conceal nothing, not having any advantage to ourselves or any of us by anything of the Pursers or any other way whatsoever, but in all things have and do endeavour to our utmost to promote their Majesties' service cordially and faithfully. *Dated*, Victualling Office, London. The 5th October, 1693.

Endorsed in Mr. Bridgeman's hand: Paper delivered by the Victuallers of the Navy and read in Council Nov. 10, 1693. *Numbered*, No. 57. B : A, P : 4.

(*g*)[7]. Extract of a Paper from the Commissioners of the Navy to the Lords Commissioners of the Admiralty, as follows :—

Now may it please your Honours, all the Indents coming to our hands, as if all the provisions therein mentioned, were delivered in kind, as hath been already observed, we cannot by any books in our Office trace this Account, as we might have done if they had come in the method prescribed by the 10th and 4th Clause of the 18th Article of the Instructions. But taking it for granted that the provisions mentioned in the said account were actually delivered in kind, as is therein set forth, the state of it by Abstract stands thus—

	No. of Men.	Bread, lbs.	Beer. Tuns.	Trs.	Galls.	Beef, 4-lb. pieces.	Pork, 2-lb. pieces.	Peas. Bushls.	Galls.	Oatmeal, gallons.	Butter, lbs.	Cheese, lbs.
Total of each specie of provisions that ought to have been delivered on board these ships.	-	2,946,650	7,991	1	30	420,950	420,950	13,152	5½	157,856½	157,856½	315,713
Whereunto is to be added 8 weeks' beer, for the 1st and 2nd Rates; and 6 weeks' beer for the 3rd Rates, which by your Honour's order was to accompany the Fleet.	10,375 for the 1st and 2nd Rates.		2,420	3	20	-	-	-	-	-	-	-
	11,985 for the 3rd Rates.		2,097	1	30	-	-	-	-	-	-	-
Total -		2,946,650	12,509	2	20	420,950	420,950	13,152	5½	157,856½	157,856½	315,713
Total of each specie said by this Account to be delivered on board.	-	2,597,566	9,480	1	44	388,951	396,044	12,294	3	70,552½	123,260½	223,792
Delivered short -	22,360	349,084	3,029	-	36	31,999	24,906	858	2½	87,303½	34,596½	91,921

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Which short provisions being cast into time, there appears to be left behind of th e proportions ordered for the aforesaid ships—

	Days.		Days.
Bread - - -	15$\frac{1}{3}$	Peas - - -	8$\frac{2}{3}$
Beer - - -	32$\frac{1}{2}$	Oatmeal - -	72$\frac{2}{9}$
Beef - - -	10	Butter - - -	28$\frac{7}{8}$
Pork - - -	7$\frac{1}{3}$	Cheese - - -	34$\frac{1}{3}$

Endorsed in Mr. Bridgeman's hand: "Read in Council, Nov. 10, 1693." *Numbered* No. 58. B: A, P: 5.

$(g)^8$. Memorial of the Victuallers of their Majesties' Navy to the Right Hon. the Lords of their Majesties' Council, together with $(g)^9$ the Accountant's and Clerk of the Issues' letter (11 Nov. 1693); as also $(g)^{10}$ Copy of a Memorial to their Lordships of their 18th of April 1693; *Endorsed*, in Mr. Bridgeman's hand, Received and read in Council Nov. 13, 1693. *Numbered* No. 59, B: A, P: 6. These papers are as follows :—

To the Right Hon. the Lords of their Majesties' Most Honourable Privy Council.

The Victuallers of their Majesties' Navy, in obedience to your Lordships' pleasure, signified to them by Mr. Bridgeman the 10th instant, at the rising of the Council, that an answer should be returned to your Lordships on the 13th instant at 4 of the clock to the following questions,—

What proportion of victuals were on board in specie in the ships of the line of battle and Sir George Rooke's Squadron upon the 23rd of April, the 7th of May and the 15th of May, and what in credit, and that reduced into days ?

They did thereupon, early upon Saturday morning, give order to Mr. Richard Lilburne, Accountant, and George Rowe, Clerk of the Issues, to examine the books and papers of issues, and to prepare an answer to the said question.

Our said officers after having examined and perused the books in the office, finding themselves incapable at the present and within the times limited to make a distinct, true and clear answer to the questions propounded, returned their reasons thereof to us by their letter which is hereunto annexed $(g)^9$.

They humbly crave leave to acquaint your Lordships with what hath already been represented.

In pursuance of the direction of the Right Honourable the Lords Committees of the Council the 29th Aug.; they did prepare and transmit to Mr. Secretary Trenchard the 5th of Oct., an account of all the ships victualled this year to the 11th of Sept., expressing therein what was delivered to each ship and vessel in kind; what the Pursers had credit for; and what provisions they were paid for in money, as likewise an account of what credits had been supplied the Pursers in kind; what provisions had been sent from London to Portsmouth, with the days of the date of the several bills of lading, and what had been sent afterwards to the Fleet.

They also transmitted to the Lords of the Admiralty by the Navy Board the said 5th of October, an account how all the ships, that they conceived were of the line of battle, were victualled and supplied from time to time, and with the said account, they did by letter (copy whereof was read before your Lordships) give an account of the proceeding in the Victualling this year, and how far they had complied with the orders

1693. — No. 765. of their Lordships, and wherein it was impossible for them so to do it. In the said letter they set forth—

That for supply of the butter wanting in the Fleet, there was a vessel with 44,656 lbs. which lay at Falmouth, which might have been with the Fleet before they sailed, had not her voyage been retarded by contrary winds and staying for convoy.

That by the request of the Commanders, the Pursers were paid money for some provisions to answer the Captain's mess.

That what the Pursers took short besides was very inconsiderable to what was ordinarily done in that kind, they issuing but 14 ounces instead of 16, and what was done was without their allowance.

That the Pursers, when they have old credits remaining in their hands, do sometimes leave part of their present victualling and supply themselves by their former credits.

That the ships victualled at this port were kept in petty warrant till the 23rd of April, and that for want of timely signification of their sailing, some quantities of petty warrant of provisions were returned to considerable loss.

That from Sept. 1692, there lay at Portsmouth the West India Fleet, the Straits Fleet, a great number of the Grand Fleet, and a squadron victualled out there by the 1st of February, so that provisions there were required faster than could be procured, but as they were sent from London, which was frequently and early represented to the Lords of the Admiralty and Commissioners of the Navy.

That notwithstanding the said representations, several *ships that* might have been victualled in this river and in the Downs were ordered from hence to be victualled and completed there.

That all possible diligence was used on their part to send provisions from hence to Portsmouth for supply of the ships there.

That several victualling ships sent from hence went with the Grand Fleet, or by some ships in few days after; so that on their arrival the agent at Portsmouth gave the Admirals under his hand, dated the 9th of May, a promise to complete the ships of the line of battle as they desired. And besides those then arrived, there were several victualling ships in the river which could not get down by reason of the strong easterly winds, though they were laden some time before.

That about 1,184 tuns of beer that was intended to go along with the Fleet was made use of at Portsmouth to complete them before their sailing for the reasons before mentioned.

That whilst the Fleet lay at Portsmouth several of the merchant ships, which lay there, were supplied with provisions out of their Majesties' ships, whereof they made complaint, but nothing was done to prevent the same.

That by reason of the exceeding dearness and scarcity of all provisions, and want of money in the proper season, so timely and early provision could not be made as otherwise might have been. All which considered, with the former debt on the Victualling Office, and the extraordinary victualling, they think it will rather appear that they have done good service, than that they were blameable for any defects which it was not in their power to prevent.

That the Grand Fleet was so supplied, even with beer, that by letter from the Admirals of the 23rd of May, though thereby they complained they had but nine weeks' beer, yet it is evident thereby, that when they parted with Sir George Rooke's Squadron, the 6th of June, they had above 48 days' beer on board, at full allowance, besides what they took

in after the said time. And as to the other provisions, they had on the said 6th of June (viz^{t}.) :—

Bread, for 110 days, at short allowance.
Beef, for 119 days.
Pork, for 121 days.
Peas, for 122 days.
Oatmeal, for 29 days.
Butter, for 85 days.
Cheese, for 83 days.

And this before any of the victualling ships came up to them; So that it plainly appears, they had no want of provisions to have enabled them to proceed to Calais, or further if occasion required.

As to Sir Geo. Rooke's Squadron, they laid before your Lordships the several indents of that Squadron, or as many of them as they knew were part thereof, whereby it appears that most of those ships were victualled for 12, 13, 16, and 19 months (see $(g)^{5}$).

By Sir George Rooke's letter to their agent of the 6th of May with a list of what that Fleet wanted, which was very inconsiderable in comparison to what was afterwards supplied them (see $(g)^{4}$).

That our agent supplied that Fleet from time to time, every 14 days, to the 7th of May.

That the 20th of May he indented with the Pursers, and paid them money for their beer above two months, and gave them credit for such provisions as they wanted.

That the 3rd of March they sent to Sir George Rooke letters of credit for 3,000*l.* to several parts abroad, according to his desire, for payment of the short allowance to the seamen, as also letters of credit to Smyrna and Scanderoon for supplying those ships that were to go there with fresh provisions during their stay there.

That as soon as they had a list from their agent of what credits he had given to the Pursers of that Fleet for providing themselves with oil instead of butter and cheese, and beverage instead of beer, &c.; they did immediately procure letters of credit from Sir Joseph Herne for 2,503*l.* to supply the Pursers at Calais for their said credits which was sent to Calais by the *Groyne* packet boat, the Fleet having sailed.

By direction from the Admirals it seems our agent did preferably after the 7th of May apply himself to the victualling of the ships for the line of battle, but he writes us the 16th of May he was about completing the said Squadron with beer. The 18th of May they wrote to him pursuant to an Order received from the Navy Board of that date to complete the said Squadron to two months' wet and 8 months' dry provisions, which order was effected as before mentioned.

That by letter from their agent of the 1st of June, which was read before your Lordships, he advises that Sir George Rooke's Squadron had nearer nine months' dry provisions on board than eight.

As they represented to your Lordships, some of the men of war were not ready to receive their provisions. The *Victory* was fain to be careened, and several empty victualling ships were employed to receive her provisions. And by letter from the Admirals of the 10th of May, it appears that the *Norfolk* and *Winchester* were not then in readiness, and the *York*, touching which there was a special remark upon the list sent up by Admirals the 22nd of May, that she had but seven days' beer, the reason whereof they did not then understand, but since have been informed that she was newly come in from cruising, and her mainmast being defective she could not receive provisions till a new one was set, and then was presently completed. And there were other

1693. — No. 765. ships that came in with the *York* from cruising. The *Deptford* and *James* Galley also remained behind the Fleet, not for want of provisions, but to be refitted.

It fell out very inconvenient that towards the end of the year 1692, the victualling was far greater than usual, and exceeded the declaration in so much that 266,029 pieces of beef and a proportion of other species answerable thereto were issued for that year's service which were provided for and should have served for the year 1693.

They doubt not, but if your Lordships please to examine what is herein before represented together with the circumstances, and particularly the Memorial presented to the Right Honourable the Lords Committees of the Council the 18th of April (copy whereof is hereunto annexed), your Lordships will find that they have not been wanting in their duty to their Majesties and discharge of the trust reposed in them.

All which is humbly submitted, &c.

Signed, Tho: Papillon ; Simon Mayne ; John Agar ; Hum: Ayles; Isr: Feilding.—*Dated*, 13th November 1693.

(*g*)[9]. Answer of Accountant and Clerk of the Issues to Victualling Commissioners, as to proportion of victuals on board the ships of the line of battle and Sir G. Rooke's Squadron on April 23 and May 7 and 15.

To enable them to answer the question proposed, they desire to know—

1. What particular ships are referred to, the same not having yet been specified, and several alterations having been made.

2. When each ship entered into sea-victuals. As to those that went from the Nore in a body, they assume it was on April 23 or 24; but as to those abroad on service (as they suppose several of them were) and at Portsmouth, they have no account.

3. On what particular days the victualling hoys or vessels arrived beside the men of war and the goods were taken in. This, as regards most of the ships, can be ascertained only at Portsmouth, and even there with time and difficulty. It is not the usual practice to take notice of these dates, the measures being taken from the indents, which is the result of what has been sent on board at several times previously.

4. What provisions any ships abroad on service have received at any victualling port on credit.

Even with the above information, the account could not be rendered in the time mentioned, the mere labour of casting up being enough to occupy the ablest accountants several days. *Signed* Richd. Lilburne. Geo. Rowe. *Dated* 11 Nov. 1693. *Enclosed* in preceding.

(*g*)[10]. Copy of Victuallers' Memorial to the Council, as follows:—

To the Right Hon. the Lords of their Majesties' Cabinet Council.

The Victuallers of their Majesties' Navy being appointed to attend your Lordships, and to bring an account in what forwardness the Victualling of the Fleet is, and particularly what provisions there are at Portsmouth, humbly represent unto your Lordships.

That a great part of the Fleet having lain in victualling all the latter end of the last year at Portsmouth, also all the West India Fleet and now the Straits Fleet, they have taken off the provisions at that place faster than they could be procured, so that besides bread and other provisions, there hath been sent from hence and arrived there since the last of September 76,178 pieces of beef and 213,394 pieces

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of pork; and many of the ships have been sent from the Nore and the Downs to be victualled and completed there, when they might have been easily supplied here, had there been timely notice given to them, and thereby the charge of transportation of those victuals might have been saved.

That by a list received from their agent at Portsmouth, dated the 7th instant, he estimates that there wanted to supply the Fleet and Straits and Virginia ships 104,720 pieces of beef, 94,720 pieces of pork, 8,942 bushels 2 gallons of oatmeal, 7,770 lbs. of butter, 41,540 lbs. of cheese. That there is laden and gone from hence, towards the supply thereof, 60,936 pieces of beef and 27,270 pieces of pork, in 5 ships, some of which, if not all of them, they suppose, sailed with the last wind from the Downs, and hope may be arrived. And they have laden another vessel with about 30,000 pieces of beef, 60,000 pieces of pork, some oatmeal, butter and cheese and currants, to supply with flour some part of beef and pork, which vessel hath promised to sail to-morrow.

Besides the petty warrant at Portsmouth and in this river, there hath been issued at Chatham since the beginning of October, upwards of 200,000 pieces of pork and other provisions answerable. That as to the ships here they have been all victualled as fast as they were ready to receive the same, but they have no money to pay the Pursers, which will amount to upwards of 15,000*l.*

As to the state of the Victualling in general, they crave leave on this occasion to acquaint your Lordships

	£.	s.	d.
That in anno 1690, they received short of the usual allowance of 20*s.* a man ℔ month - - - - - - - - -	137,037	16	2
In anno 1691, short of what was declared for at the said rate - - - - - -	40,397	8	1
In anno 1692, the Parliament having calculated but 19*s.* - - - - - -	17,343	15	9½
In anno 1691, over Victualling above the declaration to the amount of - - -	28,968	9	3
In anno 1692, the over Victualling will amount to above - - - - - -	70,000	0	0
	£293,747	9	3½

So that the Office was indebted near 300,000*l.* before the beginning of this year.

That the Victualling this year, at the rate of 20*s.* ℔ man ℔ month, amounts to 429,130*l.*, but in regard of the dearness and scarcity of all provisions, will require a far greater sum, whereof they acquainted the Commissioners of the Navy before the estimate was made; and have since represented the same to the Right Honourable the Lords of the Treasury.

That they have received towards this year's service, as yet but 148,000*l.*, viz^{t}., from the last of October to the last of December, 21,700*l.* lbs.; in January, at several times, 24,000*l.*; in February, 44,300*l.*; in March, 39,000*l.*; and in April, 19,000*l.*

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That the only season for providing flesh and curing it begins from the 1st of October to the last of April, and for want of money they could not make that timely provision they otherwise might have done; and besides are forced now to give about 50 ℔ cent. more than before Christmas, and hardly any quantity at those rates can be procured.

That by reason of the great debt on the Office, and the excessive dearness and scarcity of all species of provisions, especially corn of all sorts, no peas, wheat, malt, bread, or oatmeal can be procured without ready money, or promise of speedy payment, neither casks nor staves for casks which are exceeding dear and scarce. And the coopers, labourers, bakers, brewers, in their Majesties' several offices require payment every month, and all the Pursers before the ships go to sea. Also all the out-ports, as Portsmouth, Plymouth, Dover, &c., are greatly in arrear, they not having been able to supply them out of the weekly monies they have received.

That they will do their utmost endeavour to carry on the service with what money soever the Right Hon. the Lords of the Treasury shall appoint, but cannot foresee a possibility of effecting the same, without a very considerable sum be speedily assigned, and competent proportions of money weekly answerable to the present state of the affair.

All of which is humbly submitted, &c.

Dated 18 April, 1693.

(*g*)[11]. Oct. 16. Copy of letter from the Navy Board to the Lords Commissioners of the Admiralty, concerning the Victualling of the Navy, as follows :—

Right Honble.—It was expected by this Board that the Commissioners of the Victualling, according to what we wrote to them the 28th of September past, in pursuance of your Honours' Order of the 27th, would have sent the account thereby demanded of them, now the Orders for victualling the Main Fleet for the last Summer's Expedition have been complied with, directly to your Honours, as the said Order required. But, contrariwise, the said account coming to this Board, to be transmitted to your Honours, and a letter accompanying it, wherein re some things said to be done with our allowance, others according to rules and customs, &c., which we have no knowledge of, we have thought it becoming us, in our own justification, as well as right to the Service, to clear those points, and to that end shall humbly lay before your Honours our remarks upon each paragraph of the said letter, in the order they stand therein, as followeth, viz[t]. :—

Our Remarks.

Par. i*. This Account being in species, and consequently not so intelligible to your Honours as it may be made by casting it into time, we have caused the same to be done, and inserted it, according to the said calculation, at the latter end of this letter. As for the *St. Andrew's* refusal of 34 tuns of beer, we know nothing of it, and therefore humbly refer your Honours for satisfaction therein to the Commander, who, if he could have taken it in, was very much to blame to deny it.

* The several paragraphs, here numbered to avoid reprinting, will be found in (*g*)* above, where the letter is given at length.

Par. ii. We humbly conceive their Majesties' ships are not to have what victuals they please, but what are ordered for them, and we suppose, had they been supplied this year in what was directed, there had been no occasion for any enquiry of this kind. We must own we are wholly ignorant of any such custom as is here pretended, of loading but one half of the butter and cheese, and of the want of conveniences in the ships for the latter, as well as that one half of the allowance of oatmeal is not expended.

For 1st., The 8th Article of the Instructions to the Commissioners of the Victualling obliges them to supply the whole proportion from time to time directed, and to leave none behind but what the ships are incapable of taking in, and in that case they are to have certificates thereof from the Commanders and masters of such their incapacity. If any of the said provisions were not to be had, it is another matter, but we know no more of any such representation, than we do of any license for their short deliveries, the orders from hence being consonant with those from your Honours, to victual them with four months dry provisions and eight and ten weeks' beer, and to send the rest of the beer for four months in victualling ships along with them.

2ndly. And as for oatmeal, we are surprised to find it in this account, all the indents mentioning fish, and the 10th Article of their Instructions directing the true species delivered to be expressed in the indents, and not one thing for another. Nor is any oatmeal to be issued in lieu of fish, if we remember rightly, by the 3rd Article of the said Instructions, but by the order of this Board; and we do not find we have issued any such order, or that it was ever made known to us, that half the allowance of oatmeal is as much as is necessary; if it be, it is worth considering of lessening the proportion, as well to gain room in the ships, as to save charges to their Majesties, presuming the seamen reap no benefit by it, or anybody but the Purser; but this the sea-officers can best explain to your Honours.

3rdly. It is true in February 1691, when complaints were made, that great quantities of butter and cheese proved defective; they represented to your Honours, that it happened in great measure through the want of convenient places in the ship for the accommodation thereof. Upon which, your Honours were pleased to direct such conveniences to be provided on board the several ships for stowing the said provisions, as should be necessary for their preservation from any damage, and accordingly orders were issued to the Officers of all the yards to provide convenient rooms in all the ships for the stowage of those provisions, and particularly to fix deal boards in the most proper places on which to lay the cheeses, that they might not be heaped one upon another, which, as was complained, was often the cause of the decay of that species; since which, we have not heard of any further complaints of that kind, and therefore cannot believe there is any want of such conveniences.

4thly. As to the want of convoy for the butter said to be shipped at Falmouth, your Honours are best judges what applications were made for the same, and at what times, though the Fleet being bound to the westward, if the said vessel had not an opportunity of coming timely to it at Spithead before it sailed, which was not till the 30th May, she might, as we humbly conceive, if she had been so ordered, have joined it in its passage by that port.

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Par. iii. We must beg these gentlemen's pardon, if we cannot own the knowledge of any such practice as this is, it being not only contrary to the aforesaid 8th Article of their Instructions, which requires their sending as much of the provisions on board in kind as the ship can stow; but also to the 4th, 5th and 6th Articles of the Commanders' Instructions, which obliges them to see that all the provisions warranted for them be brought on board and none left behind. The non-observance whereof gives temptation to false musters, to prevent the Pursers being in debt upon their accounts, as otherwise they must needs be by the discounts they make with the Victuallers for their short provisions, and is the occasion often times of ships coming in from sea sooner than they ought to do for want of victuals, whereby a great part of their time is spent in ports, and their Majesties' service neglected.

Par. iv. It cannot be denied, but according to the ancient usage of the Navy the Pursers do issue but fourteen ounces to the pound, though they receive sixteen, the rest being allowed them for waste; but we are far from knowing, much less allowing that they should leave any provisions behind on that score, it giving a pretence for more and making them dilatory in passing their accounts, whereas, if the Instructions were conformed to, and no discounts made with them, but their balance bills duly paid by a regular course of payment, they would be more forward therein, and the inconveniences to their Majesties' service mentioned in the last paragraph, with many others, thereby prevented.

Besides, if the Victuallers deliver but fourteen ounces to the pound, and discount with the Pursers for the rest on this pretence, the design of the said allowance for waste will be wholly frustrated, the same being intended to prevent the falling short of the Victualling, which this must needs occasion, not doubting but the waste will be as much in proportion in fourteen or sixteen ounces, and consequently must affect the service accordingly. But in excuse for this, say they, you will find on examining the accounts, this hath been very inconsiderable this year, in comparison with what hath been formerly, and what hath been done in that kind was without our allowance. How this should be examined we cannot imagine, or how we should know of any such proceedings when all the indents have all along been silent in it, the same coming to us as we observed before, without any notice of short provisions, or credits thereupon, but as if the whole had been delivered in kind. Or how this should be done without their allowance is as strange, it being supposed that the Pursers would not leave their provisions behind without money, and that the same could not be paid for without their order, and hoped that they do not give such a latitude to their Officers, as this seems to intimate.

Par. v. If the ships had their whole proportion of provisions delivered on board, or as much of the said proportions as they were capable of taking in, as they ought, we see no use this paragraph is of, and if any were left behind of the said proportions which they could have taken in, both the Victuallers and Commanders have acted contrary to their instructions after the ships were full. Whether their credits were old or new, it was no great matter, but those credits ought not to be discounted for money, but satisfied in provisions out of the victualling ships attending the Fleet or from the next victualling port they come to.

Par. vi. It could not be well expected the Fleet could continue longer in petty warrant than the 23rd of April, nor could they be ignorant that it was in a posture of sailing before that time, which being considered, and that petty warrant provisions are fresh provisions, we cannot think they could have any extraordinary stock of that sort by them at their sailing, those provisions being not fit to be carried to sea.

Par. vii. The action of this war lying to the westward, Portsmouth indeed has become the place of rendezvous, which has made it the port of most business; but being so, it ought to be provided for accordingly, and if the adjacent ports cannot supply it, there is no remedy, but it must be furnished from hence, or such other ports as can best do it. The Declaration was made as timely last year as usual, and the same considerations that occasioned so large a share for that port, should have promoted the making the like provision there. But, by an account lately stated to the Honourable Commissioners of the Public Accounts by the Comptroller of the Victualling of this year's Declaration, at the end of September last, there appears 272,391 men for a day to be issued short of what was ordered to be made ready at that port. If any ships that might have been victualled in the river, or the Downs, were sent to Portsmouth to be supplied, it was, we presume, for want of its being done timely here, and the service we doubt not required their being ordered thither, or else they would have had no such orders, but the Declaration for that place appearing not yet to be issued, we see as little reason to complain of that, as excuse for the want of provisions to comply with your Honours' Order of the 13th of April, to make good to the Main Fleet before they sailed, what they had expended.

Par. viii. This 1,184 tuns of beer, in 13 ships, amounts indeed to about 10 or 11 days' victualling of that species for the whole Fleet, but what was intended to be sent by the other ship is not mentioned, nor is it indeed material, since they were not ready to accompany them as by your Honours' Order they ought to have been, and had the necessary provision been made at Portsmouth, according to the Declaration, there would have been no occasion for diverting that in the 13 ships from the service it was intended of going along with the Fleet, though if the Bills of Lading were examined, we do not know but it might be found consigned for Portsmouth, and not for the Fleet, at least by the provisions laden therewith it seems to be so.

Part ix. We do positively disown that ever we heard the least tittle of any such thing as this. If we had, sure we are it would not have sleeped with us, but would have been humbly made known to your Honours, without any delay, as a practice of pernicious consequence to the service, and how the Commanders can answer the permission (if there was any such thing) or anybody else, the sale of their Majesties' provision, it being not only contrary to the economy of the Navy, but as we humbly conceive, even to the Statute of the two & three & twentieth of King Charles the Second, we do not know.

But possibly it will be answered, that they were not their Majesties' provisions but the seamen's, and only such as they had saved out of their allowance. If so, this argument will not stand the Commissioners of the Victualling in any stead, for then the victualling of the ships was not shortened thereby. Though even this practice would be prevented and their Majesties have the benefit thereof, by lengthening out their ships' victualling for longer time than their indents, if the Pursers' balance bills were duly and regularly paid, because then, in all probability, the Pursers would buy the seamen's provisions, as some-

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times they do, being sure to have the benefit thereof in the balance of their accounts.

Par. x. Whatever these gentlemen have written to this Board touching any difficulties they laboured under for want of money, scarcity of provisions, or anything else, has been humbly laid before your Honours, without the loss of any time. But as for the want of money, there was received for the victualling, between Michaelmas and Lady-day, the sum of 262,785*l.* 15*s.* in money and valuable tallies, in which time no more than 62,100*l.* was appointed for the bills of this Office, but *whether* those supplies were sufficient to carry on the service under the present method of payments, we must confess we cannot determine; only this, we hope, we may be allowed to say, that if that Office complains on that account, this has no reason to be silent.

Par. xi. The truth of it is, the debts of the Navy are to be deplored, as well as the scarcity and dearness of provisions and stores, because from those reasons and the want of money, the works go on but heavily, and the charge thereof is mightily increased, but seeing this branch has had so much the preference of the other in its supplies of money, and that the Declaration for this year is not yet issued, as appears by the aforesaid account from the Comptroller of the Victualling, there seems as little occasion for the complaining of the one, as there is reason for the extolling of the other.

Par. xii. Granting the Fleet had nine weeks' beer on board, the 22nd of May, as we presume your Honours will find by the Admiral's letter of that date they were said to have, and that it was *sufficient for* a voyage to Spain (which nevertheless depends upon the greatest uncertainty in the world, the winds, and therefore seems a bold assertion) that does not excuse the want of the rest to make up their proportion to four months, which was ordered by your Honours to be shipped in victualling vessels, and sent along with them, any more than their other short deliveries.

Par. xiii. We are so far from desiring to look into the accounts before mentioned, if our time would admit of it, as it will not, that we had never concerned ourselves in this, if they had been pleased to have sent it to your Honours directly, as they were desired, and not by this Board; but the same coming to our hands, and finding the giving of credit to the pursers, and discounting with them for short provisions contrary to the Instructions, made use of as excuses for not victualling the Fleet according to your Honours' Orders, we thought ourselves obliged humbly to remind your Honours that, by the said Instructions, no credits are to be given to ships in home service, but for such provisions as the commanders and masters shall by certificate under their hands certify they cannot stow; that those credits are to be made good in kind, and not by money, and that no discounts ought to be made for provisions, but all supplied in kind, for that so long as such things are suffered, your Honours can never be under any certainty how the ships are victualled, or consequently how long they are in a condition of staying abroad.

Having thus humbly offered to your Honours our observations on the said Letter, we come now, as we promised at the beginning, humbly to lay before your Honours the Account that accompanied it, calculated into time, which will inform your Honours:—

1. What proportions of provisions were ordered for the ships therein mentioned, between the 1st of January and 1st of May last.

2. How many days' provisions of each sort by the said account was actually put on board them in that time.
3. How many days appear to be delivered short of each species, and
4. How many days appear to be delivered over of each species.

There are indeed two things more in the account received from the Commissioners of the Victualling, one of credits and the other of money said to be delivered to the Pursers, neither of which we have taken notice of in this calculation, the reasons whereof your Honours may perceive by our remarks upon their letter, giving an account of the ill-consequences attending those practices; yet we do not deny, but where the proportions ordered for many ships, are more than they can take in, they may have credits for the remainder, but then by the Instructions, you will find they are to have certificates thereof from the commanders and masters of the said ships, and when such certificates are produced for these credits they ought to be added to the following account, and the commanders and masters answerable for the same.

A State of the Account received from the Commissioners of the Victualling of the Provisions put on board their Majesties' Ships undermentioned the last Spring in pursuance of the orders of the Right Honourable the Commissioners of the Admiralty.

Ships' Names.	Their Compliment of men.	Days to be Victualled for.*		Delivered short of each Specie.								Delivered over of each Specie.							
		Dry Provisions.	Beer.	Bread.	Beer.	Beef.	Pork.	Peas.	Oatmeal.	Butter.	Cheese.	Bread.	Beer.	Beef.	Pork.	Peas.	Oatmeal.	Butter.	Cheese.
		Days.	Days.	Days.	Days.	Days.	Days.	Days.	Days.	Days.	Days.	Days.	Days.	Days.	Days.	Days.	Days.	Days.	Days.
Britannia - -	780	112	56	–	–	7	7	7	73⅘	59½	59½	2⅘	17	–	–	–	–	–	–
Royal Sovereign -	815	112	56	29⅓	–	7	7	7	57	64⅘	64⅘	–	½	–	–	–	–	–	–
Victory - - -	780	112	56	16⅔	–	–	–	–	65⅘	56⅗	55⅗	–	25	–	–	–	–	–	–
Royal William -	780	112	56	13⅗	–	7	7	7	73⅖	60	59	–	39	–	–	–	–	–	–
London - - -	730	112	56	16⅞	–	7	7	20½	60⅘	59⅗	59⅗	–	⅛	–	–	–	–	–	–
St. Andrew - -	730	112	56	6½	1⅛	7	7	20	79½	59⅗	59⅗	–	–	–	–	–	–	–	–
Albemarle - -	660	112	56	21½	–	7	7	–	41⅘	59½	59 9/10	–	20 13/14	–	–	33	–	–	–
Duke - - -	660	112	56	7	–	7	7	7	73½	59⅘	59½	–	25⅞	–	–	–	–	–	–
Neptune - - -	660	112	56	16⅔	–	7	7	7½	67	60	59 1/10	–	29 1/14	–	–	–	–	–	–
Duchess - - -	660	112	56	20⅘	–	7	7	7	71 1/10	59½	59⅘	–	13	–	–	–	–	–	–
Vanguard - -	660	112	56	21½	–	7	7	25	68⅖	59½	59½	–	16½	–	–	–	–	–	–
Sandwich - -	660	112	56	8½	–	7	7	7	66⅔	7	7	–	20	–	–	–	–	–	–
Ossory - - -	660	112	56	11⅞	–	6⅘	6⅘	7	64	59½	59⅘	–	27¼	–	–	–	–	–	–
St. Michael - -	600	112	56	5⅘	–	7	7	37½	62⅘	54⅘	64½	–	37½	–	–	–	–	–	–
Royal Katherine -	540	112	56	17⅘	9½	7	7	7	84⅘	59½	59½	–	–	–	–	–	–	–	–
Burford - - -	460	140	98	9½	–	8	8⅘	7	84	35 1/10	35	–	19⅘	–	–	–	–	–	–
Essex - - - -	460	140	98	18¼	8⅘	12	11¼	15⅘	107⅘	23 9/10	30⅘	–	–	–	–	–	–	–	–

Eagle	460	112	70	15 1/8	–	7	7	7	78 2/5	33 3/8	33 1/2	–	7	–	–	–	–	–	–
Grafton	460	140	98	–	5 3/8	21 1/2	16 1/8	7	77 2/5	31 3/8	–	84 1/2	–	–	–	–	–	–	1/8
Restoration	460	112	70	–	–	–	–	–	79 2/5	–	–	80 1/8	65 1/2	23 1/10	22 1/10	71 9/10	–	28 1/4	48 1/16
Suffolk	460	112	70	14 1/2	–	–	–	–	79 2/5	27 3/4	28 1/8	–	8 1/2	–	–	–	–	–	–
Captain	460	112	70	8 1/2	–	7	7	7	79 2/5	33 6/8	32 3/8	–	11 1/16	–	–	–	–	–	–
Hampton Court	460	168	126	42 3/8	–	–	4 1/8	7	109 1/8	–	–	–	10 1/16	21 1/16	–	–	–	6 1/8	–
Hope	460	168	126	2 3/8	–	17 7/8	24 1/8	–	115 1/8	–	–	–	44 1/2	–	–	2 1/8	–	4 1/8	10 1/2
Kent	460	168	126	17 3/4	–	–	8 1/8	–	101 1/16	–	11 1/8	–	11	1 1/8	–	41 1/4	–	12 3/8	–
Mary	365	168	126	69	20 1/4	58 1/8	13 1/8	14	78 3/4	46	45 3/8	–	–	–	–	–	–	–	–
Norfolk	490	112	112	20 1/8	39 1/8	19 1/2	20 3/8	7	46 1/8	19 1/10	29 5/8	–	–	–	–	–	–	–	–
Rupert	400	154	154	4	–	–	–	–	52 3/8	2 1/8	9 1/4	–	11	10 1/8	23 1/8	–	–	–	–
Russell	490	189	147	72 1/8	35 1/10	8 1/8	10 3/8	54 3/8	44	–	47 3/4	–	–	–	–	–	–	16 3/8	–
Stirling Castle	460	189	147	44 1/10	–	40	31 3/8	30 3/8	102 1/8	–	23 1/8	–	6 1/2	–	–	–	–	42 3/8	–
Lenox	460	154	112	20 1/8	–	35 11/16	17 3/8	7	85 1/4	–	17 1/8	–	23 1/16	–	–	–	–	13 3/8	–
Northumberland	460	196	154	41 9/10	–	9 1/4	31 1/10	12 3/4	113	12 9/10	11	–	18 9/10	–	–	–	–	–	–
Plymouth	340	140	98	11 1/2	–	27	16 1/8	7 1/2	66 1/8	13 1/8	12 3/8	–	26 1/2	–	–	–	–	–	–
Warspight	420	168	126	10 1/2	–	8 1/4	26 1/8	7	103 1/8	7 1/16	–	–	82 1/10	–	–	–	–	–	11 3/8
Winchester	355	112	112	–	19 3/8	18 3/8	24 1/8	–	61 1/8	26 3/8	49 1/8	–	–	–	–	–	–	–	–
York	340	168	126	28 5/8	–	18 3/4	16 7/7	14	92 3/4	29 3/8	10 1/8	–	10	–	–	–	–	–	–
Berwick	460	168	126	21 1/2	–	–	–	15 3/8	46 1/8	6 3/5	19 1/10	–	7 1/7	16 1/4	22 1/11	–	–	–	–
Cornwall	490	140	98	10 1/4	–	41 1/2	9 3/8	–	–	11 7/8	22 3/8	–	18 3/8	–	–	5 1/4	40 3/4	–	–
Devonshire	490	168	126	37 3/8	–	3/8	1/16	20 1/8	67 3/8	–	–	–	6 3/8	–	–	–	–	17 1/16	21 1/2
Expedition	460	140	98	15 1/4	–	16 1/16	2 3/8	2	78 5/8	11 3/4	32 3/4	–	35	–	–	–	–	–	–
Elizabeth	460	140	98	42 3/8	–	31 3/4	–	–	83 3/8	–	–	–	24 11/16	–	9 5/16	–	–	18	23 3/8
Edgar	445	168	126	–	–	67 1/8	41	85 1/2	147 1/8	–	53 1/4	12 1/8	59 1/8	–	–	–	–	24 3/8	–

* A column following this one, showing the number of days' provisions delivered on board in kind, is omitted, as the figures can be deduced by a comparison of this column with the last two.

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Now may it please your Honours, &c., as in (*g*)[7] *ad fin.*

But, to show your Honours how far you are from having any satisfaction from this account, how the Fleet was victualled at its going forth, be pleased to take notice :—

1st. That the ships undermentioned, according to your Honour's line of battle for the month of May, are not specified in the said account, so that nothing appears therefrom how they were victualled, viz[t]. :

3rd.	*Boyne*	Together with all the 6th rates, bomb vessels, fireships, brigantines, and hospital ships.
	Mountagu	
	Dreadnought	
4th.	*Crown*	
	Rochester	
	Deptford	
	Greenwich	
	Carlisle	
	Oxford	
5th.	*James* Galley	
	Portsmouth	
	Adventure	

2ndly. That the first and second rates and some of the third, sailed from the Buoy of the Nore and began sea victuals the 24 April, and sailed not from Spithead till the 30th of May following, which was thirty-four days after.

3rdly. That the other third rates mentioned in the said account were in sea victuals, some at Spithead and some abroad, most, and some of them all the spring, and consequently must have spent much more of the proportions ordered for them before they sailed. So that if they were not completed to four months at their going away, as your Honours' Order of the 13 of April directed, as we do not hear they were, the first and second rates and those of the third that accompanied them from the Nore, must then have spent about thirty-four days of their proportions, and the rest we doubt a great deal more, besides what appears by their own account as before stated to be delivered short of the proportions ordered for them.

All which is humbly submitted to your Honours' consideration by

Your Honours' obedient servants,

Signed E. Dummer; D. Lyddall; Tho: Wilshaw; S. Pett. Cha: Sergison;

Dated Navy Office, 16 October '93.

Endorsed in Mr. Bridgeman's hand: "Read in Council, Nov. 13, '93." B : A, P : 7.

(*g*)[12]. Nov. 23. Letter from Commissioners for Victualling the Navy. Enclose Affidavit of their Agent at Portsmouth, as required by the Council, together with copy of his letter to them. He forbore sending the affidavit a few days, thinking there might have been a mistake touching the 3 ships, whereof he did not advise them till 27 May. Send copy of that part of his letter, received yesterday, relating thereto. *Dated* Victualling Office, Tower Hill, this day. *Signed* Tho: Papillon, Simon Mayne, John Agar, Hum: Ayles, Isr: Feilding.

Endorsed in Mr. Bridgeman's hand: "Received Nov. 23." *Numbered* B : A, P : 8.

(*g*)[13]. Nov. 23. Paper containing (i) Copy letter of 17 Nov., and (ii) Extract from another letter of 21 Nov. 1693, from Mr. Brandon, Agent of the Victuallers at Portsmouth, viz[t]. :—

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(i.) Encloses, according to his last, an Account, certified on Oath, what Victuallers came with the Fleet.* Does not find any other came in till the Fleet was sailed, that have made their arrival on 7 and 8 May. Thinks the Account suited to the Order, which mentions only an account of the Victuallers, not what provisions were in them, nor does their letter direct it. If more is needful, it shall be mended. Have drawn on them 200*l.* to Mr. Wm. Guard, for biscuit, which pray honour. *Dated* Portsmouth Victualling, 17 Nov. 1693. *Signed* Will: Brandon.

(ii.) As to late affidavit about the time of arrival of Cooke, Quince, and Dixon,* he thinks they might arrive with the Fleet, and that on delivery, finding they were not in the list first sent, he might note they were arrived, for it was only a postscript in his letter of 27 May, and hopes he has not erred, for the vessels were all here and delivered in the time asserted.

Noted: A true Copy, Wm. Oliver. *Endorsed* in Mr. Bridgeman's hand: Received this day. Read in Council, 27 Nov. 1693. *Numbered* B: A P: 9.

$(g)^{14}$. Nov. 23. Account of vessels loaden with provisions from London by the Commissioners for Victualling the Navy, viz^{t}.:—

Vessels.	Masters.	Vessels.	Masters.
Mary Ketch	John Tizard.	*Castle* frigate	Jno. Phill.
Endeavour	Zepha. Thompson.	*Thomas and Francis*	Thomas Markin.
William and Elizabeth	Leond. Ingledew.	*William and Mary*	Drew Ashly.
Swan	Jam: Dinsmore.	*Hannah and Ruth*	Thos: Robins.
Elizabeth	Geo. Hill.	*Mayflower*	Jno. Dixon.†
Patience	Jno. Otter.	*Mary* hoy	Allen Archer.
Coronation	Miles Walker.	*William* hoy	Jno. Huggett.
Vine	Bartho. Jones.	*Thomas and Christian* hoy	Thos: Cooke.†
Bordeaux Factor	Jno. Marshall.	*Endeavour*	Jona. Quince.†

Underwritten is an affidavit by Wm. Brandon, the Victualler's Agent at Portsmouth, sworn before Thos. Brouncker, Mayor of Portsmouth, on 16 Nov. 1693, that all the above-named ships, laden with provisions for the Fleet, arrived from London at St. Helens and Spithead, on or about 7 and 8 May last, and that the provisions were put aboard the Fleet by the 30th of the same month.

Endorsed in Mr. Bridgeman's hand: "Received this day," and in another hand: "Read in Council 27th Nov. 1693." B: A, P: 10.

$(g)^{15}$. Nov. 28. Letter from Mr. Sotherne to Mr. Bridgeman. Encloses copies of several Returns from the Admirals, as directed by his letter of the previous day, of the Victualling the Fleet in May and June 1693. *Dated* Admiralty Office, this day. *Endorsed* in Mr. Bridgeman's hand, with description of contents. *Numbered* B: A, P: 11.

$(g)^{16}$. Nov. 28. Account of what beer each ship has on board, viz^{t}.:—

Ships.	Days.	Ships.	Days.	Ships.	Days.	Ships.	Days.
Britannia	52	*Sandwich*	101	*Grafton*	56	*Russell*	55
Duke	50	*Sterling Castle*	74	*Royal William*	38	*Winchester*	27
Rupert	45	*Suffolk*	72	*Boyne*	50	*Restoration*	36
St. Michael	40	*Greenwich*	33	*Neptune*	64	*Berwick*	32
Expedition	26	*Kent*	48	*Burford*	63	*Devonshire*	50
St. Andrew	24	*Essex*	62	*London*	28	*Edgar*	34
York	7	*Ossory*	41	*Hampton Court*	41	*Vanguard*	37
Royal Katherine	27	*Northumberland*	34	*Elizabeth*	34	*Hope*	68
Norfolk	35	*Duchess*	35	*Lenox*	60		
Albemarle	30	*Cornwall*	30	*Captain*	50		
Sovereign	40	*Mary*	59	*Warspite*	60		

Note.—The quantity of beer mentioned in this Account would have been sufficient for the before-going ships for 47 days at whole allowance.

* *See* next Paper $(g)^{11}$ † *See* $(g)^{13}$

1693. — No. 765.

Dated 24 May 1693. *Endorsed* in Mr. Bridgeman's hand: "Received from the Admiralty Nov. 28, 1693." *Numbered* B: A., P.: 12. [*Enclosed* in preceding.]

(*g*)[17]. Nov. 28. An Account of men and provisions at short allowance on board the respective ships in the Fleet, as follows :—

Ships' Names.	Days.								Number of Men actually Aboard.	Number of Men Sick to go on Shore.
	Bread.	Beef.	Pork.	Peas.	Beer.	Oatmeal.	Butter.	Cheese.		
Britannia	90	114	126	126	54	45	42	42	–	–
Royal William	93	93	95	93	21	73	21	21	920	17
St. Andrew	95	95	95	95	17	40	21	21	714	17
Boyne	74	74	74	74	42	74	74	74	438	10
Norfolk	69	21	24	90	22	–	27	27	493	–
Kent	67	84	73	90	35	12	66	66	454	6
Lenox	86	86	86	86	37	86	86	86	478	1
Captain	78	27	27	18	21	18	18	18	470	6
Carlisle	84	84	84	84	56	84	84	84	323	4
Plymouth	–	–	–	–	–	–	–	–	–	–
St. Michael	55	26	26	21	27	15	1	–	591	3
Winchester	97	57	64	64	31	–	69	45	340	–
London	80	124	124	12	18	124	12	12	230	–
Restoration	80	80	80	80	21	80	80	80	436	18
Hampton Court	28	121	121	105	24	–	57	57	471	–
Warspite	24	16	16	21	46	22	22	21	–	–
Ossory	99	99	99	99	28	99	13	13	660	5
Devonshire	61	86	86	86	42	36	86	86	486	7
York	83	87	91	74	27	74	84	84	345	–
Northumberland	42	74	74	74	74	74	74	74	462	6
Essex	87	87	87	87	46	87	66	66	458	2
Duchess	60	98	98	98	14	98	6	6	680	–
Duke	60	80	80	69	36	45	12	12	690	2
Cornwall	64	48	64	64	43	–	64	64	550	–
Mary	65	112	112	71	56	42	76	76	355	–
Grafton	69	75	80	90	35	74	44	44	437	4
Rochester	11	27	20	20	7	11	21	21	238	–
Strombolo	112	112	112	112	84	112	112	112	41	–
Joseph	101	29	28	51	71	39	39	39	43	–
Berwick	63	28	28	28	21	24	24	24	446	4
Sovereign	74	68	66	66	32	48	13	9	904	6
Sandwich	98	98	98	98	72	98	98	98	612	6
Royal Katherine	99	99	99	99	17	99	18	18	516	15
Stirling Castle	52	56	56	76	35	69	71	71	378	6
Rupert	49	86	82	81	37	10	36	39	383	7
Suffolk	79	75	75	75	46	–	61	49	432	–
Expedition	28	12	12	16	20	13	–	1	453	–
Greenwich	90	19	19	13	32	17	25	30	226	–
Mountagu	–	–	–	–	–	–	–	–	–	–
Charles	98	98	98	98	98	180	98	108	20	–
Lightning	93	93	93	93	93	93	93	93	45	–
Vanguard	32	20	20	36	19	33	11	11	596	17
Deptford	–	–	–	–	–	–	–	–	–	–
Burford	86	24	24	24	56	24	19	19	462	7
Albemarle	59	63	63	63	21	63	26	26	660	19
Neptune	76	21	21	49	35	23	7	7	680	18
Russell	20	27	21	19	51	36	19	19	492	5
Edgar	56	56	56	56	15	56	45	45	445	1
Hope	31	15	14	14	51	3	25	25	451	1
Elizabeth	56	77	77	63	50	None.	42	42	440	3
Griffin	104	29	29	58	65	39	39	39	44	–
Etna	86	86	86	86	86	86	86	86	44	–
Vesuvius	50	18	18	36	50	27	27	27	41	–

Note.—The beer mentioned in this Account would have been sufficient for the before-going ships for 33 days at whole allowance.

Dated Britannia, June 12th, 1693.

Endorsed in Mr. Bridgeman's hand: "Received from the Admiralty Nov. 28, 1693."

Numbered B: A., P: 13.

[*Enclosed* in (*g*).[18] above.]

(*g*)[18]. Nov. 28. An Account of how many weeks of Beef, Pork, Pease, Butter, Cheese and Oatmeal, and days of Beer and Bread at short allowance on board the Fleet, number of men actually on board, and conditions of the ships :— 1693. — No. 765.

Ships' Names.	Days.		Weeks.						Men actually on Board.	Ships' Conditions.
	Bread.	Beer.	Beef.	Pork.	Pease.	Oatmeal.	Butter.	Cheese.		
Britannia	79	26	13⅔	15	15	6	4	4	870	In a good condition.
Victory	34	50	10	10	10	6	2	0	690	The ship in a good condition for the sea, her leakage excepted.
St. Michael	44	16	5	5	3	3	0	0	590	In a good condition for the sea.
St. Andrew	68	12	9	9	9	3	0	0	710	—
Kent	58	42	12	10	13	1	8	9	436	In a good condition for the sea.
Boyne	56	34	12	14	14	16	10	10	460	In a good condition.
Norfolk	37	13	6	7	12	0	5	5	487	In a good condition; only 60 tons of ballast wanting.
Captain	63	16	10	10	3	3	3	3	460	In a good condition for the sea.
Lenox	50	26	7	7	5	5	6	7	474	In a good condition.
Plymouth	14	14	2	2	2	2	2	2	360	—
Flame	66	66	9	9	9	9	9	9	45	In a good condition.
Roebuck	56	56	8	8	8	8	8	8	59	- Ditto.
Vulcan	54	54	8	8	8	8	8	8	44	- Ditto.
Mariana Prize	35	30	5	5	5	5	5	5	70	- Ditto.
Berwick	50	12	25	25	25	19	19	19	446	—
York	–	–	–	–	–	–	–	–	–	Not here.
Northumberland	30	46	7	7	7	4	4	4	456	Bad, as by the Captain's account.
Essex	74	32	10⅔	10⅔	10⅔	6⅔	6⅔	6⅔	457	- Ditto.
Duchess	–	–	–	–	–	–	–	–	–	At Plymouth, re-fitting.
Duke	60	10	8	8	7	1⅓	1⅔	1⅔	681	Good condition.
Ossory	60	12 bad.	8	8	8	8	0	0	610	In a good condition.
Cornwall	54	42	7⅓	7⅓	7⅓	0	6⅓	6⅓	550	- Ditto.
Mary	55	46	14	14	9	5	9	9	–	Plymouth, re-fitting.
Grafton	60	24	9	10	11	9	4	4	437	In a good condition.
Rochester	–	–	–	–	–	–	–	–	–	Cruising off Ushant.
Warspite	12	34	4	4	3	3	3	3	409	In a good condition.
Strombolo	–	–	–	–	–	–	–	–	–	—
Joseph	90	60	13	13	13	18	18	18	43	In a good condition.
Fortune	–	–	–	–	–	–	–	–	–	—
Royal William	63	14	12	12	12	7	3	3	902	In a good condition.
Sovereign	62	18	18	18	17	10	5	4	880	- Ditto.
Sandwich	88	42	12	12	12	12	12	12	620	- Ditto.
Katherine	75	7	12	12	12	12	One.	One.	504	- Ditto.
Stirling Castle	63	63	9	9	9	9	9	9	370	- Ditto.
Rupert	29	24	9	9	9	2	3	5	377	Wanting a spare top-mast.
Suffolk	65	32	9	9	9	–	7	5	435	In a good condition.
Restoration	45	10	9	9	9	9	9	9	443	- Ditto.
Greenwich	76	18	10	10	7	6	8	9	278	Cruising. Returned just now.
Lightning	83	83	12 weeks of all other provisions.						45	In a good condition.
Mountagu	29	24	9	9	7	4	5	5	345	- Ditto.
Expedition	18	14	4	4	3	3	–	–	463	- Ditto.
St. Paul	81	52	10	10	10	10	10	One	45	In a good condition.
Charles	49	47	11	11	11	11	11	11	20	- Ditto.
Portsmouth	69	63	9	9	9	9	9	9	132	- Ditto.
Vanguard	21	8	8½	8½	8½	8½	3	3	519	Some gunner's stores wanted.
Deptford	–	–	–	–	–	–	–	–	–	—
Devonshire	57	32	10	10	10	3	10	10	476	In good condition.
Burford	76	46	10	10	10	10	6	6	460	One hanging knee in the hold under the gun-deck, and a leak in the buttock.
Albemarle	75	19	10⅓	10⅓	10⅓	10⅓	none	none	661	—
Neptune	65	20	9	9	9	6	3	3	680	In good condition.
London	54	9	59 days	59 days	59 days	59 days	none	none	632	- Ditto.
Russell	14	40	30	11	11	2½	3½	3½	490	- Ditto.

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Ships' Names.	Days. Bread.	Beer.	Weeks. Beef.	Pork.	Pease.	Oatmeal.	Butter.	Cheese.	Men actually on Board.	Ships' Conditions.
			days	days	days	days				
Edgar	47	6	6½	6½	6½	6½	6½	6½	442	A foul bottom
Hope	21	28	6	6	6	6	6	6	453	Fit to go to sea.
Elizabeth	48	20	9	9	9	none	7	7	490	In very bad condition.
Hampton Court	17	20	12	12	9⅔	none	2⅔	2⅔	476	In good condition.
Adventure	—	—	—	—	—	—	—	—	—	Gone to Bilboa.
Rupert Prize	24	24	4	4	4	4	4	4	77	——
Griffin	84	42	12	12	12	12	12	12	43	In good condition.
Etna	70	70	10	10	10	10	10	10	40	- Ditto.
Vesuvius	40	40	8	8	8	24	22	22	41	——
Machine	13	27	3	3	none	3	2	2	50	Leaky.
Kitchen, bomb vessel	48	48	6	6	6	6	6	6	30	Good condition.
Shark, brig	11	11	4	4	3½	2	3	3	27	Wants caulking.
Society	—	—	—	—	—	—	—	—	—	Plymouth.
Bristol										

Note.—The beer mentioned in this account would have been sufficient for the foregoing ships for 23 days at whole allowance.

Dated June 22nd, 1693.

Endorsed in Mr. Bridgeman's hand: "Received from the Admiralty, this day."

Numbered B: A, P: 14.

[*Enclosed* in $(g)^{15}$.]

$(g)^{19}$. Nov. 29. Account of what provisions arrived at Portsmouth in May 1693, before the Fleet sailed. The Account gives the amounts of various species of provisions brought by each of the 18 vessels named in (g).[14] above, the totals being as follows:—

Biscuit	82,380 lbs.	Oatmeal	—
Beer	1,148 tuns.	Butter	—
Beef	66,827 pieces.	Cheese	21,969 lbs.
Pork	69,872 „	Currants	12,217 „
Pease	867 bush., 2 gallons.	Oil	300 gallons.

Subjoined is a statement showing the number of days for which the above provisions will serve 22,360 men, viz^{t}.:—

Provisions.	Days. At whole Allowance.	Days. At short Allowance.	Provisions.	Days. At whole Allowance.	Days. At short Allowance.
Biscuit	3⅜	5⅛	Oatmeal	—	—
Beer	12½	—	Butter	—	—
Beef	20⅞	31¼	Cheese	9¼	13⅞
Pork	21⅝	32⅜	Currants	—	—
Pease	8¾	13⅛	Oil	—	—

Note:—"We do not find there were any other victualling ships which arrived at Portsmouth in the month of May 1693, before the Grand Fleet sailed."

Dated: Victualling Office, Tower Hill, London, this day. *Signed* as in $(g)^{12}$. *Endorsed* in Mr. Bridgeman's hand: "Received and read Nov. 29, 1693." *Numbered* B: A, P: 15.

$(g)^{20}$. Nov. 29. Abstract of what provisions ought to be remaining in specie 6 June 1693 on board their Majesties' ships of the line of

battle, being the day they parted with Sir George Rooke's Squadron, for (1) 22 ships, with a complement of 13,595 men, victualled at London, and (2) 20 ships, with a complement of 8,765 men, victualled at Portsmouth. These two Accounts, the details of which are here omitted, give the following results :—

Provisions.	Whole quantity supplied. (1.)	Whole quantity supplied. (2.)	Expended from 23 April to 6 June.	Remaining at 6 June.	Will serve for Days: At whole Allowance.	Will serve for Days: At short Allowance.
Biscuit - - -	1,516,198 lbs.	616,447	484,888 lbs.	1,647,757	73½	110¼
Beer - - -	4,830 tuns. 2 h. 15 gall.	2,214 2 47	2,492 1 40	4,552 3 12	48⅞	-
Beef - - -	226,319 pieces.	96,221	69,270	253,270	79½	118⅞
Pork - - -	226,214 „	102,247	69,270	259,191	81½	121½
Pease - - -	7,083 Bushl. 4 galls.	3,250 4	2,164 6	8,169 2	81⅞	122⅝
Oatmeal - - -	37,165½ galls.	12,222	25,976	23,411	19½	29¼
Butter - - -	54,072½ lbs.	39,949	25,976	68,045	56¾	85
Cheese - - -	109,954 „	73,072	51,952	131,074	54¾	82

Of the ships in (1), the *Burford*, *Essex* and *Grafton* are stated to have been victualled for 140 days, the *Britannia* for 126, and the rest for 112; and of those in (2), the *Northumberland* for 196, the *Russell* for 189, the *Stirling Castle* and *York* for 168, the *Rupert* for 154, the *Plymouth*, *Expedition* and *Elizabeth* for 140, the *Mary* and *Cornwall* for 84, and the rest for 112 days.

Note: There is nothing charged for any credits but only what was delivered in kind (except what was paid in money for the Captains' mess), and that the full of the expense is deducted, which is more than is usually expended. So that there were, without question, more provisions on board than in the abovesaid Account.

This is a copy of an Account delivered to the House of Commons the 27th November, drawn up by our officers, and we believe the same is a true State of the Victualling of the ships therein expressed.

Dated Victualling Office, Tower Hill, London, this day. *Signed* as in $(g)^{12}$.

Endorsed, "Abstract of what provisions were actually on board the ships of the line of battle in specie the 6th day of June 1693, and for how many days the said provisions would serve;" and, in Mr. Bridgeman's hand, "Received and read November 29th, 1893." *Numbered* B : A, P : 16.

$(g)^{21}$. Copy of some General Observations presented by the Victuallers of the Navy to the Honourable House of Commons, the 27th November 1693.

If there were more ships of the line of battle than mentioned in the Abstract, they were abroad on cruising or not ready, and their several victuallings will appear in the General Account, and they must have more provisions in proportion than the rest.

The *Boyne* was victualled the 30th June, 1692, for four months, and lay in Petty Warrant victuals afterwards till the latter end of October, or beginning of November, after which she was victualled at three several times for 7 months.

The *Greenwich* was victualled at London and at Portsmouth for 6 months.

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The *Mountagu* the 8th May at London for 4 months.
The *Carlisle* was victualled at London for 4 months.
The *Rochester* was victualled at London and Plymouth.
The *Crown* was victualled at Portsmouth, 27 April and 28 June.
The *Deptford* victualled at Portsmouth for 3 months, 3rd June.
The *Humber* at Hull, the 22 June, for 4 months.
The *Sussex* at London, the 9th June, for 4 months.

By the Abstract it appears that the 6th June there was on board the Fleet at whole allowance 48¼ days of beer.

According to which, there must be on board the 21 June, 31 days and ¼ of beer, if they had their full complements of men, and drank their full allowance, otherwise they must have much more.

The 22nd June Capt. Ayles, with several victualling ships, after they had been as far as Ushant and directed by the Commander of the *Swift* to return to Torbay, joined the Fleet there; and the 23rd several other victualling ships, under convoy of the *Bonadventure*, arrived there also, which, with those that by order lay at Dartmouth before, were in all to the number of 28 sail, and had on board them, as appears by the particulars in the book now delivered:—

382,824 pounds of Bread.
1,096 tuns 1 hhd. of Beer.
40,398 pieces of Beef.
25,993 pieces of Pork.
2,554 bushels of Pease.
298 bushels 5 gall. Oatmeal.
61,209 pounds of Butter.
43,160 pounds of Cheese.
9,335 pounds of Flour.
8,633 pounds of Currants.

So that the said 23rd of June, there was with and in the Fleet beer for above 40 days and other provisions, of all sorts, sufficient to answer their credits with an overplus, except oatmeal, which the overplus of pease might supply; and most of the said Victuallers might have gone along with the Fleet. And there was on board the Fleet 14,000*l.* in ready money, at their first sailing, and afterwards, by the *Humber*, was sent 14,000*l.* more.

These provisions, above-mentioned, for 22,360 men will serve:—

—	Biscuit.	Beer.	Beef.	Pork.	Pease.	Oatmeal.	Butter.	Cheese.
	Days.	Days.	Days.	Days.	Days.	Days.	Days.	Days.
At whole allowance -	17½	11½	13½	8	25	2	51	18½
At short allowance -	25½	-	20½	12	37½	3	76	28

Besides the overplus of Currants, being 7,077 pounds.

Note.—The above said paper (except the reduction of the provisions into days) is copy of what was presented to the Honourable House of Commons the 27th November, 1693. *Dated* and *signed* like preceding.

Endorsed in Mr. Bridgeman's hand, "Received and read Nov. 29th, '93. *Numbered* B: A, P: 17.

(*h*). Jan. 9, 1693-4. Papers delivered from the Council Office, and read this day, as follows:—

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(*h*)[1]. Report of the Council to his Majesty, about the delay of the Mediterranean Squadron, as follows :—

May it please your Majesty,

In obedience to several Orders of Council, upon the Petition of the Levant Company, lately presented to the Queen, we have enquired into the delays of the despatch of the Mediterranean Squadron, and find the matter of fact to be as follows :—

The Lords Commissioners of the Admiralty having intimated to the Levant Company, that a convoy should be ready at what time they should desire, the Company did, by a Memorial dated the 20th of January 1691–2, pray that the convoy might be prepared to depart in the month of May following.

The 12th of April, 1692, the Company presented another Memorial to the Admiralty, wherein they prayed their ships might go in May, and that protections might be granted to them for their men ; and were told your Majesty had laid an embargo upon all ships, and that without your Majesty's especial command they could proceed no farther, but advised the Company to petition your Majesty that their ships might go out in June or, at the farthest, the beginning of July.

The 17th of April the Company petitioned your Majesty in Council, that their ships might go out in May or as soon after as your Majesty's affairs would permit, which your Majesty's service would not allow of till the end of that summer's expedition.

On the 29th of July the Company, by order, attended the Lords of the Committee of Trade, who upon hearing them, agreed to move in Council that the convoy for that trade might be ready to sail the beginning of September, and accordingly on the 11th of August it was ordered in Council, that protections should be granted for their men, that their ships might be ready at the Buoy of the Nore the 5th of September following.

About the 28th of September some of the Company attended the Earl of Nottingham, who told them there was advice come that the French had lately sent a strong squadron into the Mediterranean, so that it might be worth the Company's serious consideration, whether it would be prudent to adventure so great an estate with the convoy, further acquainting them that it was resolved a very considerable force should be sent into those seas, to depart by the 10th of November, under protection whereof their ships might go with the greater safety ; which being considered at a General Court of the Company, it was agreed by them to defer the departure of their ships till the said time.

On the 14th of November the Commissioners of the Admiralty intimated to the Company that it was convenient their ships should be in the Downs by the 1st of December.

On the 11th of December some of the Company attended his Majesty at a Committee of the Council at Kensington, and being asked whether their ships might proceed safely with a convoy of 18 men of war, they replied they were contented, if a greater strength could not be granted ; and pressing for a speedy departure, intimation was thereupon given them for their ships to be in the Downs on the 1st of January, where they arrived about the middle of that month, and thence with the first fair wind sailed to Spithead, where they arrived about the 10th of February.

On the 20th of January the Admiralty ordered the Commander of the ships in the Downs of the Straits Squadron to sail to Spithead.

The 17th of February the Company attended the Commissioners of the Admiralty, who told them the Squadron for the Mediterranean had orders to sail with the first fair wind.

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On the 22nd of February the Admiralty sent an Order to Sir George Rooke to continue with the Squadron under his command at Spithead till further order, which was occasioned upon advices received, that the Chevalier de Nesmond was in the Bay of Biscay with a considerable squadron of great ships, upon which it was thought requisite to send Rear-Admiral Aylmer with a squadron to look after the enemy.

Rear-Admiral Aylmer being driven back into Torbay by stress of weather, on the 15th of March he was ordered by the Admiralty to come to Spithead.

March the 20th the Admiralty sent orders to Sir George Rooke to proceed with the Straits Squadron with the first opportunity of wind and weather.

March the 23rd the Admiralty sent orders for stopping Sir George Rooke till further order.

Endorsed: 3 Nov. 1693. *Numbered*, B : B, P : 2. [Read 9 Jan. *See* Notes above.]

$(h)^2$. Report of the Council to his Majesty about Sir George Rooke's proceedings, as follows :—

"May it please your Majesty,

In obedience to several Orders of Council, upon the Petition of the Levant Company, lately presented to the Queen, we have thought fit for our better information about the proceedings of Sir George Rooke after he parted from the Main Fleet, to propose several Questions relating to the same, and we humbly lay before your Majesty the said Questions, with Sir George Rooke's Answers and the Replies of some merchant Commanders, and his further Answers thereupon, as containing the matter of fact, viz^t. :—

[Here follow Questions 3 to 12 inclusive contained in $(f)^{41}$, and the respective answers, replies and further answers in connection with those questions, contained in $(f)^{21}$, $(f)^{41}$, $(f)^{42}$, and $(f)^{50}$.

All which we humbly submit to your Majesty."

Endorsed: 3 Nov. 1693. *Numbered* B : B, P : 3.

$(h)^3$. Nov. 6. The Order of King and Council upon the Commissioners' of the Customs Representation for the Barbadoes ships to depart the last of December, but were detained until the 24 June 1694, as follows :—

At the Court at Kensinton, this day.
Present.
The King's Most Excellent Majesty in Council.

The following Report from the Commissioners of the Customs to the Right Hon. the Lords of the Committee for Trade and Plantations having been this day Read :—

May it please your Lordships,

In obedience to your Lordships' command at our last attendance on your Lordships the 25th of the last month, at which time your Lordships were pleased to deliver us a Paper containing an abstract of the times intended for the convoys to be ready for the several trades hereunder mentioned :—

Canary - - - - -	15 November.
Barbadoes and Leeward Islands -	1 December.
Portugal - - - - -	
Cadiz - - - - - -	
Virginia - - - - -	
Jamaica - - - - -	
New England - - - -	

Your Lordships thereupon requiring us to discourse the merchants concerned in those several trades and to know how far those times will

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agree with the circumstances of their several trades, We do humbly report to your Lordships that we did the next day cause publication to be made upon the Exchange of the purport of your Lordships' said reference to us, desiring to speak with some of the principal merchants concerned in those trades; and there have appeared to us a body of merchants concerned in the Canary trade, who declare themselves well pleased with the time appointed for the convoy for their ships, viz^{t}., the 15th of November. There have likewise appeared to us a body of merchants concerned in the trade of Barbadoes, who desire that such of their ships as shall then be ready, which will be about 12, not exceeding 15 at most, may be permitted to go out with the Canary fleet and have the advantage of that convoy, so far as their voyages consist, and that for the residue of the ships designed for the Barbadoes trade, the time appointed for the convoy may be the last instead of the first of December, which we thought our duty humbly to signify to your Lordships, that preparation may be accordingly made for those trades, if your Lordships shall so think fit, Humbly acquainting your Lordships, that none of the rest of the merchants concerned in those trades have hitherto appeared to us. All which is humbly submitted to your Lordships' consideration.

Signed, Robt. Clayton. Robert Southwell.
G. Werden. Godolphin.
Richd. Temple.

Dated, Custom House, London,
3 Nov. 1693.

It is Ordered by his Majesty in Council, That the ships for the trades therein mentioned be permitted to proceed on their voyage, notwithstanding the embargo according to the said report, the usual bonds being first given to go and return with the convoy. And the Right Hon. the Lords Commissioners of the Treasury and Lords Commissioners of the Admiralty are to issue all necessary directions accordingly.

Signed Wm. Bridgeman.

[Read 9 Jan. *See* Notes above].

(*i*). Jan. 12, 1693–4. Copy of Letter from Sir John Trenchard to the Lords Commissioners of the Admiralty, as follows :—

My Lords, Whitehall, 19 May 1693.

The Queen commands me to signify her pleasure to you, that you send the following Orders.

That the Admiral and Commander-in-Chief of the Mediterranean Squadron, with the ships under his command and convoy, proceed on their voyage as soon as may be, wind and weather permitting.

That the Admirals of the Main Fleet do sail at the same time and keep company with the Mediterranean Squadron as far as they shall think it requisite.

That when the Mediterranean Squadron shall part from the Main Fleet, the Admirals of the Main Fleet shall direct the said Squadron to steer such a course for their passage to Cadiz, as shall be thought most safe by a Council of War, with relation as well to the Brest fleet, if gone out to sea, as to the Toulon squadron.

That the Admirals of the Main Fleet do send notice to the West India Convoy now at Plymouth to be ready to proceed on their voyage with the ships bound to those parts.

I am, my Lords,
your most humble servant,
Signed J. Trenchard.

Endorsed: 19 May 1693.

1693. — No. 765. Sir Jno. Trenchard signifies the Queen's Pleasure concerning the Main Fleet's keeping company with the Mediterranean Squadron, &c. Received from Mr. Priestman 12 Jan. 1693.

(*k*). Feb. 12, 1693–4. Papers communicated by the House of Commons at the Conference this day, and reported on 15 Feb. (L. J., XV 369). The Papers are as follows :—

(*k*)[1]. Paper as follows :—Copie d'une Lettre écrite de Paris le 1[ier] Juin. R[eçue] May 30, 1693.

Voicy l'ordre du Mouillage de notre flotte de Brest, que nous n'avons pu avoir qu' à present.

Première ligne du costé du Port de Brest, qui est composée de 20 vaisseaux, savoir :—

1.	La Sireine de 400 hommes et de 60 canons. Je n'ay pas les noms des capitaines.						
2.	Le Parfait	de	450	hommes	et de	70	canons.
3.	L' Excellent	„	400	„	„	60	„
4.	L'Agréable	„	400	„	„	62	„
5.	Le St. Esprit	„	450	„	„	76	„
6.	Le Victorieux	„	600	„	„	100	„
7.	L'Ambitieux	„	650	„	„	96	„
8.	Le Glorieux	„	400	„	„	62	„
9.	Le Conquerant	„	550	„	„	82	„
10.	L'Admirable	„	800	„	„	106	„
11.	Le { Soleil Royal / Terrible }	„	1,000	„	„	108	„
12.	L'Orgueilleux	„	600	„	„	90	„
13.	Le Content	„	400	„	„	60	„
14.	L'Illustre	„	450	„	„	76	„
15.	Le Pompeux	„	550	„	„	82	„
16.	Le Juste	„	390	„	„	66	„
17.	Le Souverain	„	600	„	„	80	„
18.	Le Formidable	„	650	„	„	90	„
19.	L'Intrepide	„	600	„	„	90	„
20.	Le Bizarre	„	450	„	„	70	„

Seconde Ligne de l'autre costé de Brest, composée de 21 vaisseaux, savoir :

1.	Le Courtisan	de	400	hommes	et de	60	canons.
2.	Le Vermandois	„	400	„	„	60	„
3.	L'Ecueil	„	450	„	„	70	„
4.	Le Florissant	„	450	„	„	82	„
5.	Le Merveilleux	„	850	„	„	106	„
6.	Le Magnanime	„	600	„	„	90	„
7.	Le Henry	„	450	„	„	70	„
8.	Le Courrier	„	400	„	„	60	„
9.	L'Ardent	„	450	„	„	70	„
10.	Le Grand	„	600	„	„	90	„
11.	Le Terrible	„	900	„	„	106	„
12.	Le Vainqueur	„	600	„	„	90	„
13.	Le Brillant	„	400	„	„	60	„
14.	Le Prompt	„	400	„	„	60	„
15.	Le Capable	„	400	„	„	64	„
16.	Le Sanspareil	„	400	„	„	60	„
17.	L'Aimable	„	450	„	„	70	„
18.	Le Dauphin Royal	„	700	„	„	104	„
19.	La Couronne	„	500	„	„	80	„

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20. Le Fort	- - -	de	450	hommes	et de	70	canons.
21. Le Magnifique	- -	„	650	„	„	96	„
Corps de Réserve, composé de 27 vaisseaux, savoir :—							
1. L'Entendu	- -	de	390	hommes	et de	66	canons.
2. Le Neptune	- -	„	300	„	„	50	„
3. Le St. Jean d'Espagne		„	350	„	„	64	„
4. Le Marquis	- -	„	400	„	„	62	„
5. Le St. Michel	- -	„	400	„	„	60	„
6. Le Precieux	- -	„	400	„	„	60	„
7. Le Teméraire	- -	„	400	„	„	60	„
8. Le Mignon	- -	„	450	„	„	70	„
9. Le Moderé	- -	„	400	„	„	60	„
10. Le Trident	- -	„	300	„	„	50	„
11. L'Heureux Retour	-	„	358	„	„	52	„
12. Le Courageux	- -	„	400	„	„	60	„
13. Le Brave	- -	„	400	„	„	60	„
14. Le Diamant	- -	„	400	„	„	60	„
15. Le François	-	„	350	„	„	54	„
16. Le Brusque	- -	„	400	„	„	60	„
17. La Marie Elizabet	-	„	300	„	„	50	„
18. Le Vigilant	- -	„	390	„	„	50	„
19. Le Maistre	- -	„	400	„	„	60	„
20. Le Vaillant	- -	„	390	„	„	58	„
21. Le Fortuné	- -	„	400	„	„	60	„
22. Le Fidele	- - -	„	300	„	„	50	„
23. Le Prince	- - -	„	400	„	„	60	„
24. Le Castrigan	-	„	350	„	„	52	„
25. L'Indien	- - -	„	400	„	„	60	„
26. L'Envieux	- -	„	400	„	„	62	„
27. La Perle	- - -	„	400	„	„	62	„

Il y' a encore dans le Port, Le St. Louis et L'Eole. On attend Mr. Le C. d'Etrées avec les siens ou 2 ou 3 autres. Voila 68 vaisseaux, ou il y a 30,118 hommes et 4,876 canons. On a nouvelle depuis que cette flotte a mise à la voile, et qu'on l'avoit perdue de veue. On tient pour assuré Mr. Le C. d'Etrées devant Roses, assiegée par Mr. de Noailles.

Quoyque plusieurs nient le renouvellement de l'alliance avec le Duc de Savoye, les plus savans avouent pourtant qu'il a consentu encore pour quelques années, sans qu'on sache au vray combien. Il n'a tenu qu' a'Pignerol qu'il demandoit pour faire la paix avec nous. On ne luy a pas voulu accorder.

Informez vous de ce que vaut le pain, la livre, à Londres ; Car on dit icy qu'il y est fort cher.

On s'etonne toujours icy comment les ennemis par l'experience ne deviennent point sages, et qu'ils se laissent toujours prevenir.

Pour contenter le peuple on chante aujourdhuy le *Te Deum* pour la prise de Heidelberg. M. de Pontchartrain est icy. On dit qu'on fait garde autour de sa maison, mais cela ne paroist pas. On pretend que le Caimacan à present Gr. Visir, est grand homme de guerre, et qu'il poussera fort les affaires, encouragé par les conquestes que nous faisons en Allemagne.

Le Roy a eu avis que M. Du Fay, Gouverneur de Fribourg, est mort. Voila 2 gr. gouvernements à donner,—Tournay, vaquant par la mort de M. de Maulevrier, et Fribourg. P. I.*

(k)^2. Paper dated, Paris le 1 Juin 93 Rec^d. May 30th. Voila 68 vaisseaux ou il y a 30,118 hommes et 4,876 canons. On a nouvelle

* P[aul] J[odrell], Clerk of the House of Commons.

1693. depuis que cette flotte a mise à la voile et qu'on l'avoit perdue de veue. *Endorsed:* "Received from the E. Nottingham, 15 Jan. 1693."

No. 765. [*Enclosed* in (*k*)[5] below.] P. I.*

(*k*)[3]. Feb. 12, 1693–4. Copy of list of the Brest fleet. Identical with (*k*)[1], above. *Endorsed* as delivered in this day by Mr. Secretary Trenchard. P. I.* [*Enclosed* in (*k*)[5] below.]

(*k*)[4]. Feb. 12, 1693–4. List of the Brest fleet, May 14, 1693. Identical with above. *Endorsed* like preceding. P. I.* [*Enclosed* in next Paper.]

(*k*)[5]. 12 Feb., 1693–4. Paper about Intelligence of the sailing of the Brest fleet. Begins ("Mr. Secretary Trenchard"). Ends ("received by them") L. J. XV. 369 *In extenso. Endorsed:* "Received from the House of Commons at a Conference, 12 Feb. 1693, and to be reported on Wednesday next. Reported 15 Feb. 1693."

Part II.—Jacobitism (Abraham Anselme).

(*l*). Jan. 2, 1693–4.—Papers delivered in by Mr. Aaron Smith this day, pursuant to Order of 29 Dec. L. J. XV, 329, 331. [*See also* Notes above]. The papers are as follows:—

(*l*)[1]. Paper containing (1) Copy Order of 29 Dec., requiring Mr. Aaron Smith to lay before the House this day "two letters from Capt. Wall to Mr. Killegrew and Sir Ralph Delavall, Mr Praed's affidavit, Capt. Roe's † affidavit, the Admiral's letter to the Earl of *Nottingham* upon that subject, and all other papers that are in his hands relating to that affair," and (2) List of letters and affidavit, contained in the 5 papers annexed, delivered in this day accordingly.‡ *Endorsed*, Aron Smith.

(*l*)[2]. Letter from Capt. Peter Wall, *addressed* to the Hon. Mr Henry Killigrew, on board the *Britannia* in Portsmouth, as follows:—

Sir,—I take the boldness, being formerly acquainted with you, to give an account of the gentleman, Mr. Abraham Anselm, who is now your Secretary, which might prove of very bad consequence, as well to yourself as the other gentlemen that are with you in commission, as also to the nation, which I wish well, as [I] do yourself. Yesterday, being Sunday the 21st May, came a sea-commander to my house; he told me that [he] was recommended by the said Anslem to give his word, that he would command a ship for King James, and if he would, he assured the Cabal he would perform it; that also the said Anslem did desire to know of a gentleman of your own country, where he could raise men in Cornwall for the late King James, and what number. So, for the Government you may use your discretion. I am the gentleman

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* P[aul J[odrell], Clerk of the House of Commons.

† Corrected here from ("Rome") as wrongly spelt in C. J. His Affidavit, and the letter to E. Nottingham, are not among the records.

‡ Mr. Anselm, who had been Secretary to L. Torrington, and was re-appointed as Secretary to the new Admirals, *Luttrell* (28 Jan. 1692–3), iii. 24, was sent for, but not in custody, to answer the depositions against him, *Ib.* (6 July) iii. 130. On 7 July he was examined before a Committee of the Council, the Lords of the Admiralty being present, when Capt. Roe, Mr. Praed, "and another merchant" appeared against him; on which he was turned out of his place, and committed to the custody of a messenger, and the Attorney-General was ordered to prosecute him *Ib.* (8 July) iii. 132. An indictment was afterwards preferred against him at the Old Bailey, for endeavouring to persuade Mr. Praed and others to enlist men for King James, but the Grand Jury ignored the Bill *Ib.* (9 Sept.) iii. 181. His successor was Mr. Bowles, who was appointed by the Admiralty, *Ib.* (13 July) iii. 135, and accepted by the Admirals on 9 July. *See* (*e*) XIII 8.

that you commonly called your countryman, was in your kinsman Rooke's service off Genoa, so shall desire the favour of you to let me know where you receive this or no. Direct your letter to me at Mr William Tyler in Southampton. I have no more, but wish you all prosperity in your undertakings. I remain your humble servant at command. *Signed*, Peter Wall; *Dated*, London the 22nd May 1693. *Numbered*, No. 1.

(*l*)[3]. Letter from same *addressed* to Sir Ralph Delavall, on board the *Britannia* in Portsmouth, C. D. G., as follows :—

Sir, I take the boldness, though unknown, to give you an account of what I hear of your Secretary, Mr. Abraham Anselm, viz.: Yesterday came to my house a sea-commander, who told me that [he] was recommended by the said Anselm to be a sea-commander for King James, as also that he had some time since spoken to a Cornish gentleman to know where he could raise forces in Cornwall for King James; the which this morning I spoke with the gentleman himself, who told me the same. This I thought fit to give you an account, that you may govern yourself according, you knowing what charge he is in. I shall desire the favour of you to write me a line or two where you receive this or no, and direct your letter to me to Mr. William Tyler, in Southampton, is the needful at present from your most obedient, humble servant at command. *Signed*, Peter Wall.

P.S.—Your Honour is unknown to me, but you may please to enquire of Capt. Dover and Capt. Good, and Capt. Grantham, or any that have passed the Straits.

Dated like preceding, *Numbered* No. 2.

Endorsed: Received from Mr. Aaron Smith, 2 Jan. 1693, being 5 Papers.

(*l*)[4]. Letter from same, *addressed* to Mr. Abraham Anselm, at Mr. Brandon's, Agent for the Victuallers at Portsmouth, as follows :—

Sir, Yours of the 25th May* I have received; by which I see you had seen what I had written to Admiral Killegrew and Sir Ralph Delavall, and if you have not let them see your letters, you did not well, for what I did inform them was what was told me by one Capt. Peter Rowe, of your recommending him to be a commander for King James, and for the other is a very honest good gentleman to whom you enquired where he could raise forces for King James in the West. There was nobody but myself when he told me, so cannot name his name, but is a man very well known to you, and did wish you well, and was not willing that your person should come to any harm, but on the contrary, was willing it should be known that your being in a place of such trust as this might be of bad consequence to the nation. As to what I wrote of the Captain, there was my wife in my company when he told it, and also told of the same matter how you had been tampering with the other gentlemen; so on the next day I went and discoursed said gentleman myself, and he confirmed the same, on which I thought convenient to give advice, for I think in duty so to do. I have no more to add, but I am your obedient servant at command. *Signed*, Peter Wall. *Dated* Southampton the 26th May 1693. *Numbered* No. 4.

(*l*)[5]. Paper containing copy of the three following letters to Capt. Wall, *endorsed* Copy of Mr. Ab: Anselme's letters to Capt. Wall. The letters are as follows :—

Sir,—Upon two letters written by you to Mr. Killigrew and Sir Ralph Delavall, wherein you inform them that a sea-commander

* *See* next Paper.

693. — No. 765. acquainted you that I had consulted with him to serve King James, to which he applied himself to a Cornish gentleman to know what forces could be raised—I suppose, seamen you mean, to man her—I am to desire you to send me the name of said commander, the gentleman named that he applied himself to for that purpose, and the reason why you did not apprehend him, till such an information could be made appear in this matter, it would have done the nation service and me justice. It is looked upon, as it is plainly evident, as malice, and therefore regarded accordingly. However, in justification of myself, I am to enquire in this matter, and wherein you can be serviceable to me in it, I shall think myself very much obliged to you; for such villains oft to be made examples of. Pray, upon sight hereof, let me hear from you; directing to me at Mr. [Grahams, Clerk of the Check at Portsmouth]* Brandon's, Agent for the Victuallers at Portsmouth. Sir, your humble servant. *Signed*, Ab: Anselme, *Numbered* No. 3. *Dated* 25th May.

Letter from same to same, as follows:—

Sir,—I received yours of the 26th instant, and thank you for letting me know my accusers. Your letters were both delivered to Mr. Killegrew and Sir Ralph into their own hands before I knew anything of the matter, who sent for me to them, and gave them me to read, which I could not believe there was so much villainy in man; for, as I hope for mercy from Heaven, I am so far from talking with him about any such matter, or indeed of business of any kind whatsoever, that I have been hardly three times in his company since I saw him in Venetia, and that never at my own invitation, but as he has been introduced by others, so that which malice will invent no man is secure from; but how possible it is for me to prefer him for the service he pretends, without the consent of the Admirals, your own sense and reason may judge, since you cannot but know that no stranger, as he is, to them, is to be recommended by a bare character without producing substantial certificate, both of his ability and honesty, from the parties that have employed him, which they must surely remember, if I had recommended any such person, which I am so far from doing, that I never did but for one man in my life, who is known to them and now on board. As for the other gentleman you mention, I presume he swore that Mr. Rowe can influence to say what he pleases. However, I do not take it at all unkindly of you for giving this information, for it is what an honest man ought to do. I shall take care to inquire into the matter and do myself that justice I ought to do. Your answer to me now shall be certainly shown to the Admirals, from whom nothing of this matter shall be concealed. Sir, I am your friend and servant, *Signed*, Ab: Anselme.

This is to assure you I delivered your two letters to the Admirals,—*Signed*, J. Fletcher.

Noted: This had no date. *Numbered* No. 5.

Letter from Mr. R. Warre† to same, as follows:—

Sir,—I had not your letter till this morning, and immediately showed it to my Lord, who commands me to tell you that he would have you let me know whether you have given the Admirals an account of the matter whereof you write to me, and likewise that you will send me the name of the person who gave you this account, and such other circumstances as may be necessary for a full information. I am your humble servant, *Signed* R. Warre, *Dated* Whitehall, May the 28th, 1693. *Numbered* No. 6.

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* The words in square brackets are struck through.

† Secretary to E. Nottingham.

(*I*)[6]. Affidavit of Mr. Praed against Mr. Abraham Anselme, as follows :— 1693.

No. 765.

"About two months since (as near as I can remember) one Capt. Peter Rowe came to me at the Ship Tavern without Temple Bar, and told me he had a business to impart to me that perhaps I would hardly give credit to. I asking him what it was, he told me that there came an unknown gentleman to his lodgings, and enquiring for him by his name, he being in the way, made answer unto him himself. The gentleman told him he was a stranger to his person, but however had heard of his character, and told him that Mr. Abraham Anselm had recommended him to a great Lord (from whom he came) as a fit person to take the command of a ship of war, and that if he were willing to bring in King James again, he should have a ship of 80 or 90 guns, and he would introduce him to the Lord that sent him ; otherwise the Lord was not to be known. He made answer (as he informed me) that he thanked the Lord and Mr. Anselm for their esteem of him, but although he was a man of misfortunes, yet he was a true subject of the Government established, and so refused to accept thereof. After this, asking my advice what proper courses he should take in this matter, I told him his best way was to acquaint the Earl of Nottingham or the Admirals of the Fleet with it, and withal told him I was the more apt to give credit to what he said, for that about a twelve months since, meeting Mr. Anselm and Sir Richard White in the Pall Mall, Mr. Anselm told me, "Jack, I know that thou art an honest fellow, and one that has great interest with the Tinners in the County of Cornwall," and asked me what men I thought I could raise in case there should be a design of bringing in King James, telling me that in Monmouth's rebellion I was much for King James, and hoped I would be so still, for that he had heard that I would have accepted of King James' Commission. I answered him I was a man for the present Government, and so we parted. And about five weeks since, there came one Capt. Peter Wall to my lodgings and acquainted me, that the day before there called upon him one Capt. Peter Rowe (the same aforementioned Capt. Rowe), and discoursing with him about the affairs of our Fleet, and wondering how one Anselm came to be in so great a post as to be Secretary to the Navy, in regard he was a reputed Jacobite, he told me that he was so much his friend that he had (unknowingly) recommended him to a great person of honour as a fit person to serve King James, and that there came a strange gentleman unto him and acquainted him that his character was made known to a great person of honour, from whom he came, and that if he were willing to bring in King James again, he might have a ship of 80 or 90 guns, and would also tell him the Lord's name ; but he refusing the offer (as he told me) the gentleman went away and said no more. But Capt. Rowe, finding that Capt. Wall gave but little credit to what he said, told him that he had related the same thing to me ; and thereupon Capt. Wall came to me (relating the same matter), and asked me if I had heard anything of it, and I told him I had. Then Capt. Wall asking of me what was the best method to be used, it being a national concern, I told him the best way was to write to the Earl of Nottingham and so likewise to the Admirals of the Fleet. And Capt. Wall wrote to the Admirals, Mr. Killigrew and Sir Ralph Delavall ; but had no return from themselves, but had two evasive letters from Mr. Anselm, nothing of answer to what Capt. Wall wrote or the matters he accused him with, which letters Capt. Wall has now in his custody, and copies whereof I have now by me. Capt. Wall likewise wrote a letter to Mr. Warr, Secretary to the Earl of Nottingham, which was answered the 23rd of May last,

1693. — No. 765. a copy whereof I have now by me, and Capt. Wall has the original, and which was answered by Capt. Wall about two or three days after that by Capt. Wall, and he had no answer since (as he has informed me). *Signed* John Praed. Sworn before me this 27th day of June 1693. *Signed* Nottingham. *Numbered* No. 7.

766. Dec. 11.—Clayton's Estate Act.—Draft of an Act to indemnify the Trustees of James Clayton, Esq., for joining with him in selling lands for payment of his debts. [Read 1ª this day; Royal Assent, 8 Feb. 1693–4. (L. J., XV. 319, 363). 5 W. & M. c. 8 in Long Calendar. Com. Book, 30 Dec. 1693 and 2 Jan. 1693–4.]

Annexed:—

(*a*) 30 Dec. 1693.—Petition of James Clayton, Esq. Petitioner, who has brought in the Bill, cannot attend the Committee, as his creditors, who are impatient with him, are daily waiting to arrest him. Prays for a Protection from arrests in his attendance. *Signed* James Clayton, L. J., XV. 330.

(*b*) 2 Jan. 1693–4.—Letter from E. Nicholas to Mr. Phillips, at the Black Raven, near Serjeant's Inn in Chancery Lane, giving his consent to the passing of the Bill. *Dated* 21 Dec. 1693. [Read in Committee this day, Com. Book.]

767. Dec. 21.—E. Portland's Privilege (Castanet).—Complaint, in French, that on 9 Dec. 1693 Ezekiel Castanet, an officer of E. Portland, had been arrested by John Brown, a Bailiff, at the suit of John Carter, a Tailor, for goods ordered by Marie Delon, his wife, for payment whereof she holds the receipt of Mary Carter, wife of the said John Carter, who cannot himself either read or write. Ezekiel, to leave prison, has been forced to find two sureties, vizt., Jean Boudet and Pierre Gally, both Ministers. Carter lives in Newport Court, and Brown in More Street, in the parish of St. Anne. [Bail discharged this day, and Brown and Carter ordered to be attached. L. J., XV. 326.]

Annexed:—

(*a*) 2 Jan. 1693–4.—Petition of John Brown and John Carter. Petitioners did not know that Castanet was a servant of the Earl. They have begged pardon of the Earl, who has granted it. Pray to be discharged. *Signed*, Jno. Carter, John Brown. L. J., XV. 331. [Appended to preceding.]

(*b*) 20 Feb. 1693.—Petition of Lancelott Emmott, Deputy to the Serjeant-at-Arms attending the House. Brown, in going from the Bar, made his escape without paying his fees, and Petitioner was forced to pay out of his own pocket the fifth part of the fees due to the House, although he never received a farthing of day fees. Petitioner, being informed on the 9th inst. that Brown was at Uxbridge, went there with one Wadbrooke and re-took him, but he was taken away from Petitioner by Edward Browne, Nicholas Mercer's wife, Mary Brown, and John Brown's wife with several others, who said they cared not for their Lordships' Order. The constable present refused to assist Petitioner without an order from a Justice of the Peace, and Brown rode away on Mercer's horse. Prays for such Order as their Lordships shall think meet. *Signed*, Lan: Emmott. *Endorsed* as read this day. L. J., XV. 376.

(*c*) *Undated.*—Note containing as follows: "John Brown, Sen., and his wife, Edward Brown and his wife. The Constable of Uxbridge."

(*d*) 24 April 1695.—Petition of Lancelot Emmott. Petitioner, in arresting Brown, was assaulted and wounded by him and others

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who assisted him, and in defending himself, wounded Brown and another. He was arrested on the 5 June following in the Marshal's Court, at Brown's instance, for an assault, and gave bail to the action, and on the same day, he was taken by Sir James Butler's warrant at the complaint of Ann Brown, the said Brown's wife, and Sir James, although shown their Lordships' Order against her, bound Petitioner over to the Sessions, who appeared and for want of prosecution discharged his recognizance, and in January, by the advice of Mr. Wm. Leighton, one of the Clerks of the Crown Office, John and Ann Brown indicted Petitioner for an assault, and Leighton drew and filed the indictment, and Petitioner is outlawed thereon, as informed by the Exigenter for the County of Middlesex. Prays for relief. *Signed*, Lancellott Emmott. *Endorsed* as read this day. L. J., XV. 565.

(*e*) 27 April 1695.—Petition of William Leighton, Gent., in custody of the Serjeant-at-Arms attending the House. Petitioner never was concerned in any prosecution of Emmott by order of John and Ann Brown, any further than drawing two indictments for assault, both of which were returned by the Grand Jury into the Court of King's Bench; but Petitioner never made any process on the indictments, nor is he outlawed. Petitioner was wholly ignorant that Emmott was executing any Order of the House. Is sorry for offending the House, and prays to be discharged. *Signed*, W. Leighton. *Endorsed* as read this day. L. J., XV. 571.

(*f*) 27 April 1695.—Petition of Sir James Butler, Knt., Steward of the Marshalsea of his Majesty's Household. Petitioner surrendered himself to Sir Fleetwood Sheppard, Gentleman Usher of the Black Rod, and is sorry to fall under their Lordships' displeasure. John Brown's wife complained to Petitioner on oath, that Emmott on 4 June, meeting her in the street, drew his sword upon her and threatened her life. Emmott never showed Petitioner any Warrant or Order of their Lordships, nor was he then in the execution of his office of messenger or Deputy Serjeant. *Signed*, Ja: Butler. *Endorsed* as read this day. L. J., XV. 580. [On 29 April, when this Petition was considered (according to order of this day), *Sir James Butler* and *Mr. Emmott* were (on motion) called in, and their Petitions were read, and they were heard. *Mr. Grives* (sworn) said that in February Mr. Brown went along with him, and had a javelin in his hand. Mr. Emmott drew his sword. *Anne Nixon* saw Mr. Brown take up the bar and strike at Mr. Emmott. I thought they would have murdered him. *Robert Mims:* There was a Warrant to arrest. Mr. Emmott showed him the paper, and told Sir James it was the Order of the House of Lords. *Mr. Sincoke:* Shewed Sir James the Order in his Chamber. *Micha. Rooton:* Saw no riot by Mr. Emmott. She did not complain of any wounding. Others were sworn, but not heard. Sir James Butler's witnesses sworn. *William Leighton* sworn and heard. *Richard Lane* says Brown's wife came and swore before Sir James she went in danger of her life. I saw no paper showed my master. (*Blank*), *Constable:* I served the Warrant on Emmott. He submitted to it, and went with me, and when he came to Sir James, he had bail. I saw no (*sic.*) *Edward Meredith:* I was present when Emmott was brought. I saw no paper offered. *Anne Brown* sworn and heard. *Sir*

1693. *James Butler* was called in, and discharged with a reprimand. (MS. Min.; L. J., XV. 581).]

No. 767. **768.** Dec. 29.—Bampfield *v.* Popham (Appeal formerly depending).—Petition of the Respondent. Henry Rogers, the Petitioner's great uncle, by his Will of 8 May, 1672, devised his whole estate to Petitioner in Tail male, under a condition that if Sir Francis Popham should not settle two-thirds of his own estate upon Petitioner, the devise should be void. Sir Francis did not literally perform the condition in his life-time, but by his Will gave Petitioner his whole estate, which in equity was equivalent to the said condition with a great overplus. Thereupon Petitioner in 1680 brought his Bill in Chancery for relief against the breach of condition, and in 1682 obtained a Decree that a Master should examine and state whether the estate was a fair equivalent, and if so, that Petitioner should be relieved against the forfeiture and enjoy the estate, which Decree was confirmed, on a rehearing, in May, 1683. Appellant on 2 June 1685 brought his Appeal to their Lordships, insisting there was no equivalent, and Petitioner answered by his guardian, but pending the Appeal, on 1 July 1686, the Master in Chancery reported an equivalent with an overplus of 80,000*l.*, and Appellant's exceptions were overruled and the Report confirmed on 7 Dec. 1686. The Appeal was heard and dismissed by their Lordships on 1 July 1689, when the Decree was confirmed. Appellant, however, on 18 July last, brought a Bill of Review in Chancery, signed by John Hawles and Edward Strode, Esquires, to set aside the Report and Decree of the equivalent, which Bill is grounded on false suggestions and is intended to undermine and draw into an examination in Chancery their Lordships' Order and final Judgment. Prays for relief and redress. *Signed*, Alexander Popham. *Endorsed* as read this day. L. J., XV. 328. [On 30 Dec. Counsel being called in on the above Petition, *Mr. Filmer* (for Popham) opens the case. *Mr. Hawles* is heard to the signing the Bill of Review. This has been stirred in Chancery. *Mr. Filmer* heard in answer to Mr. Hawles. We could not say this before, for by the Judgment of this House it was read. Counsel withdraw. *Ordered* that the Clerk bring on the 2nd the Petition and Answer on which Judgment was given in 1689, and the Minute Book of that time* (MS. Min.; L. J., XV. 330).—On

* The proceedings at the hearing of the Appeal on 1 July 1689 are thus recorded:—Counsel called in. *The Attorney General* (for Appellant) opens the case. He mentions an equivalent, and we have rested under the Will. The law has cast the estate into our scale. Dying without issue and settling the estate is in one Clause. A Will is a conveyance as good as any whatsoever. An eq: is to say that equity shall make a man's will. This is a question between law and equity, and therefore most proper before your Lordships. Instances in the case of *Fry* v. *Porter*. We have a title vested in us by the will, a freehold, and therefore the Decree ought to be reversed. *Mr. Solicitor Somers* (for Appellant): The equi: is nothing; this is out of the jurisdiction of Chancery, and ought to be tried in law. They call it a trust in the printed case. As the case stands here, it is no trust. It is a limitation, and not a condition. Here is a devise over. Gave notice of the Will and nominated Counsel. No settlement made. The estate limited to Alexander must determine. *Sir William Whitelocke* (for Alexander Popham the infant): The Decree was made on just grounds. There are 100,000*l.* concerned. *Mr. Finch*: The question is whether upon this limitation in the Will the estate is settled in Mr. Popham. The case is proper in Chancery. It was proper to come to have an account of the trust. (They read depositions). *Counsel* heard to reply on both sides. Counsel withdraw. The *L. Privy Seal* states the case to the House. *Judges* asked, whether this be such a kind of a use or trust that admits of no equity. *L. C. Baron* opens the case as it stands. I take it to be a limitation. *Nevill, J.*: A limitation. In point of law it is a limitation, and subject to all conditions, and the [illegible] may [illegible]. The Decree was then affirmed and the Appeal dismissed [MS. Min.; L. J., XIV. 261.]

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2 Jan. the House appointed a Committee to consider of the case and proceedings (MS. Min.; L. J., XV. 331). This Committee met on 3 Jan. (E. Bridgewater in the Chair.) Parties called in. Order of 29 Dec. 1693 read. *Mr. Appleby* says he has only summoned Mr. Hawles and not Mr. Bampfield or Mr. Strode, they being out of town. *Mr. Hawles* says he was not at the Bar when the Judgment of the House was made, nor is instructed to say anything in this matter. *Sir Thomas Powys* (for Mr. Popham): We desire your Lordships' opinion, whether this business has not been so determined by the House, as the Chancery ought not to meddle further in it. The Lord Keeper has retained the Bill. *Mr. Filmer* states what Mr. Popham has done in pursuance of the Judgment of the House, and what proceedings have been in this matter in Chancery and before the House. They withdraw. Mr. Popham's Petition is read. *Ordered* to report, that the Committee are of opinion, that there yet appearing to have been no proceedings by the Court of Chancery in this matter, nothing need be done therein by the House. (Pet. Book.) Report made accordingly, *eod. die.* (MS. Min.; L. J., XV. 332.) *See* further under date 11 March 1696–7.]

Annexed :—

(*a*) 29 Dec. 1693.—Order of the House on preceding, L. J., XV. 328. *In extenso.* *Endorsed* Lords' Order this day for Mr. Strode, Mr. Hawles, and Bampfilde's attendance.

769. Dec. 29.—Broughton * *v.* Micklewright.—Petition and Appeal of Sir Brian Broughton, Knt. and Bart., and Peter Broughton, Esq. Elizabeth, sister of Sir Brian Broughton, in 1680, lent Edward Moreton and Wm. Micklewright, both deceased, 300*l.* on a bond for 600*l.*, dated 10 August 1680, but died before any of the principal or interest was paid, leaving Sir Brian her executor, who became entitled to the money. William Micklewright, one of the obligors in the bond, died, leaving his son William his executor, who had assets sufficient to pay off the debt. Edward Moreton died insolvent, whereupon Sir Brian put the bond in suit against Wm. Micklewright, the son, and obtained judgment. Micklewright then filed a bill in Chancery, in 1690, suggesting that the debt was paid. Sir Brian in his answer insisted that, the money and interest being due, he delivered the bond to his son, the Petitioner Peter, to receive the 300*l.* with interest from Edward Moreton in his lifetime, and that Peter received several sums in part payment to Sir Brian's use, and that the bond was put in suit to recover what was left unpaid. Peter in his answer insisted that, in 1682 or 1683, Sir Brian delivered him the bond to collect the moneys due from Moreton, who promised to borrow 100*l.*, wherewith to repay him, if Peter would be bound with him on being indemnified. Accordingly Peter, in 1683, became bound with Moreton in a bond of 200*l.* for payment of 100*l.* with interest to one Robert More, who, on Moreton's failing to pay, sued Peter for the money, and obtained it from him. Micklewright, and Moreton's widow, Elizabeth, not only refuse to indemnify Peter from his bond to More, but would have the 100*l.* to be received in part payment of the 300*l.* The Master of the Rolls decreed that the 100*l.* taken up by Moreton and Peter should be allowed as part of the 300*l.* due, and Petitioners failed to obtain relief on their Appeal. Pray that the Decree may be reversed. *Signed*, Bry: Broughton, Pet: Broughton; *Countersigned* by R. Bretland and Sa. Sh. Broughton. L. J., XV. 329. [The Appeal was dismissed without a hearing. *See* notes to Annex (*e*) on next page.]

* Entered wrongly in L. J. as "Braughton." L. J., XV. 329.

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Annexed :—

(*a*) 18 Jan. 1693–4.—Motion paper of Respondent for further time to answer. L. J., XV. 346.

(*a*[1]) 29 Dec. 1693.—Copy Order, of date, on Petition of Appeal. L. J., XV. 329. *Endorsed* 18 Jan. 1693–4. [Appended to preceding.]

(*a*[2]) 5 Jan. 1693–4.—Affidavit, of date, by Respondent, that he has no assets in his hands of the personal estate of his father, William Micklewright, deceased ; and that, his debts being paid, he is not worth 5*l*., and that he lives 100 miles from London, and is too ill to travel to London. *Signed*, Willm. Micklewright. His mark. *Sworn* this day before Wm. Nabbs, in the County of Stafford. [Appended to (*a*) above.]

(*b*) 31 Jan. 1693–4.—Answer of Respondent, William Micklewright, Executor of William Micklewright. The decrees of 22 Feb., 4 W. & M., and 23 May last, are just and equitable, saving that they are injurious to Respondent, who has never had any assets sufficient to perform them. Prays that if he be not further relieved, the Appeal may be dismissed with costs. *Signed* Wm. Micklewright; *Countersigned* John Chely. *Endorsed* as brought in this day.

(*c*) 5 Feb. 1693–4.—Petition of Appellants for an early day for hearing. *Signed* Brian Broughton, Pet: Broughton; *Endorsed* as read this day. L. J., XV. 359.

(*d*) 13 Feb. 1694–5.—Similar Petition of Appellants. *Signed* as preceding and *endorsed* as read this day. L. J., XV. 490. [*See* note to next paper.]

(*e*) 15 Feb. 1694–5.—Affidavit of Thos. Michall, of Penn, Co. Stafford, Gent., that the parties had agreed to refer the matters in dispute to the arbitration of the Hon. Mr. John Gray, but that Mr. Blakemore, Appellant's solicitor, failing in his undertaking to procure his client to seal a bond and attend Mr. Gray, Mr. Broughton gave him notice of their intention to proceed on their Appeal, whereupon Mr. Blakemore begged his pardon for the delay, and wished him to proceed with all his heart, as his client was a rascal, adding that Mrs. Moreton, the widow, refused to let him seal the bond and proceed in the reference. *Sworn* this day before John Francklin. *Endorsed* as read this day, and Appeal dismissed. L. J., XV. 494. [*Mr. Broughton* being heard this day on his Petition of the 13th inst. (Annex *d* above), delivered this Affidavit, which was read. *Mr. Frith* was heard. Knows nothing since the hearing. Asked why he did not make an application before this time, he says : I thought it time enough, any time the Session. *Ordered*, that the Petition and Appeal be dismissed. (MS. Min., L. J., XV. 494).]

770. Dec. 29.—Grahme *v.* Stamper.—Petition of James Grahme. Petitioner, being Keeper of the Privy Purse and Master of the Buckhounds to the late King James, ordered Liveries for his huntsmen, and Francis Stamper, at his own request, was admitted to deliver divers quantities of lace to the King's tailor for that purpose, for which he was paid as money was ordered out of the Privy Purse. Arrears being due to him on the King's departure from the Kingdom, Stamper sought to charge them on Petitioner, and recovered 316*l*. against him in the Common Pleas. Petitioner obtained an injunction in Chancery to stay proceedings at law ; but his Bill in that Court for relief was

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dismissed. Prays that the dismission may be reversed, and the injunction continued. *Signed* J. Grahme; *Countersigned* Wm. Whitelocke and Charles Pigeon. *Endorsed* as read this day. L. J., XV. 329. [The Cause was first heard on 23 Jan. 1693–4. *Sir Thomas Powys* (for Appellant) opens the case. We hope they have brought the book to show we took the goods for the King. The Cause was tried in London by a jury of tradesmen, and so it went against him. We tried for a new trial, but the trial was denied. He brought a Writ of [Error] and a Bill in Chancery. The Respondent put in a Plea to us in Chancery, and upon arguing the Plea, it was overruled, and at last we had his Answer. When the Cause was heard, the Commissioners looked upon it as a hard case. Mr. *Pidgeon* (for Appellant): They waited till money usually came in. This man brought his action for two debts together. It was not proved that the Appellant promised payment to the tradesmen; yet it was proved they were delivered to him. This is so just a cause, that, if there is any room for your Lordships, we hope you will relieve us. (They read receipts for money.) *Mr. Dobyns* (for Respondent): Here was no surprise nor fraud, and the Chancery dismissed their Bill. He came in equity, and said, "I owe you nothing," when a verdict says "You did." We produced the books, and they could make nothing of it. We proved the truth of our Plea to be as it was. We had as good begin in Chancery to sue for a debt, as to go to law, if in this case we have not relief. *Mr. Hawles* (for Respondent): Whatever their equity is, it is hard if they are relieved. *Sir Thomas Powys* heard in reply. Counsel withdrew, and the L. Keeper reported the Cause. *Question* put; Whether this dismission shall be reversed? *Ordered*, that the Clerk search for precedents in what cases this House has directed new trials at law, and that this House will resume the consideration of this business to-morrow. (MS. Min.; L. J., XV. 349.) On 24 Jan. the Order in *Dyer* v. *Thwaites*, 25 April 1690, found out by the Clerk, was read. *Moved* to hear Counsel, what they can say as to a new trial, or whether he could have had a Writ of Error. *Proposed* to hear Counsel, why or why not a trial at law. *Proposed* to ask the Judges, whether, if Mr. Grahme did not promise, he is obliged to pay? *Holt, C. J.:* This is matter of evidence, and depends upon circumstances. If a (*illegible*) says, "Put it on my account or my credit," he is to pay it. Mr. Grahme's Letter [?] is a great evidence that Mr. Grahme is to pay; that an evidence he delivered them on the credit of Mr. Grahme, he ought to pay it. *L. C. Justice C. P.* Whether he be liable, if not made an express promise—he may be bound by circumstances without any promise,—and so he spoke to several circumstances. It is a matter of fact, proper for a jury. *Rokeby, J.:* It is a juror's duty to answer matter of fact. A person may be a debtor in the eye of the law without a personal promise. After long debate, further consideration adjourned till to-morrow. (MS. Min., L. J., XV. 350.)—25 Jan. Further consideration put off till to-morrow. (MS. Min.; L. J., XV. 351.)—On 26 Jan. Further consideration resumed. *Proposed* to ask the Lord Keeper, whether he will not think he must act for the future otherwise than he now thinks himself obliged? or, what he conceives would have been the ill consequence in this case, if he had directed a new trial at law? Whether they have known that, upon a suggestion upon a Bill in equity that the verdict in law was not well grounded, they could grant a new trial? [*Answer*]: When there was an action begun at law, and a verdict had, after that judgment, a Bill brought, and the matter charge, and

1693. — No. 770. set out in the Bill, and an Answer thereunto, if the matter in the Answer be of Equity, not tried in the Action, it cannot. A Court of Equity can give relief; it does not contradict the verdict. If there is no equity, the Court cannot meddle with it. *Proposed* to ask the Lord Keeper what he conceives would have been the ill consequence in this case, if he had directed a new trial at law? After debate, the *Question* was put. *Question* proposed: Whether the dismission of the Court of Chancery shall be reversed? *Previous Question* put: Whether this Question shall be now put? Resolved in the *Affirmative*. *Main Question* put: Whether the order of dismission shall be reversed? Resolved in the *Negative*. *Ordered*, that the dismission be affirmed, and the Appeal dismissed. (MS. Min.; L. J., XV. 353.)

Annexed:—

(*a*) 8 Jan. 1693–4.—Answer of Francis Stamper. Respondent and his partners, John Bishop and one Gilbert Kirke, deceased, brought their action in the Common Pleas in 1689 for 318*l.* 18*s.* 9*d.* for goods sold to Appellant, and on a trial before Pollexfen, C.J., recovered a verdict for 299*l.* 18*s.* 9*d.* damages, besides costs, and thereupon obtained judgment. This judgment being affirmed on a Writ of Error in King's Bench, Appellant brought a bill in Chancery suggesting that the late King and not himself was paymaster. The Common Pleas refused a motion for a new trial. The Lord Keeper, assisted by Mr. Baron Powell, declared there was no equity in the Bill, it being a proper cause at law, and accordingly dismissed it with costs. Respondent has been above four years kept in Chancery under an injunction, and has spent more than all the money recovered at law. Prays that the Appeal may be dismissed with costs. *Signed* Fran: Stamper; *Countersigned* Wm. Dobyns (whose signature is here engrossed). *Endorsed* as brought in this day. [On 4 Jan. he was ordered peremptorily to put in his answer on the following Monday (8 Jan.) at ten o'clock. (MS. Min.)]

771. Dec. 30.—Gulston's (Southwark Waterworks) Bill [H.L.]—Draft of an Act to impower William Gulston, Esq., to break up the streets and other public ways in Southwark and parts adjacent for repairing and laying of pipes for supplying of Water from the River of Thames to the Inhabitants there.—Whereas William Gulston, Esq., [is] owner of certain waterworks in the borough of Southwark in the County of Surrey, and of great numbers of pipes and trunks laid within the ground, employed and used with the same for conveying of water out of the river of Thames for the necessary use of the respective inhabitants, as well for their trades as families residing and dwelling in Southwark aforesaid and the liberties thereof, and such places as lie within the liberties of London and other adjacent parts within the Bills of Mortality in the said County of Surrey; And whereas it is found by experience that the said waterworks are not only a great security to the said inhabitants in cases of sudden and unhappy accidents of fire, but also very much tend to the health, ease and convenience of the said inhabitants; And to the end the said William Gulston may have such authority as shall quiet all disputes that can or may arise for or in respect of opening the pavements and ground in the streets, lanes, ways and other public passages lying and being in the parts and places aforesaid, for continuing repairing and laying of pipes and branches as occasion shall require; Wherefore and in regard of the great charges that have been already expended upon the said waterworks, and that the said William Gulston

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must necessarily be put unto in continuing and carrying on of the same, and that so public a good may receive due encouragement; May it therefore please your most Excellent Majesties, at the humble suit of the said William Gulston, that it may be enacted, and be it enacted, &c., That it shall and may be lawful to and for the said William Gulston, his heirs and assigns, to continue the said waterworks or to erect and make any new or other waterworks within any of the places aforesaid, upon such ground as he or they shall purchase, and to receive and take water out of the River of Thames for supplying all and every the said waterworks already erected, or such other waterworks as he or they shall erect and make.

And be it further enacted by the authority aforesaid, that the said William Gulston, his heirs and assigns, and his and their servants, agents and workmen at all times hereafter shall have liberty, power and authority to dig, break up and open the pavements and grounds in all or any of the streets, alleys, lanes, ways and other public passages lying and being in the places aforesaid, for continuing, repairing and laying of pipes and trunks from the said waterworks already erected and made, or from any other waterworks which he or they shall hereafter erect and make, and to lay and derive water-branches or quills of lead or wood from all or any of such pipes or trunks, and to alter and repair the pipes, trunks and branches so laid and made or to be laid and made for conveying of water to the inhabitants aforesaid. Provided always that such digging or breaking up of the streets and other public places do not and shall not obstruct or hinder the ways, so as there shall not at all times be left convenient passage; and that the said William Gulston, his heirs and assigns, at his and their charges from time to time within reasonable time, do and shall fill up and make good the said ground and pavements so by him or them broken up; and also that the said William Gulston, his heirs and assigns, do not or shall not at any time hereafter demand, receive, or take any greater rents, rates or prices from the said inhabitants for supplying and serving the said water other than after the rents, rates or prizes that are now taken for the same, unless in cases where the families, trades or callings of the said inhabitants do or shall require a greater expense of water than what they respectively now use, and then shall demand and take such rents, rates and prizes only as shall be reasonable and proportionable to such expense of water.

Saving unto all and every person or persons, bodies politic or corporate, their heirs, executors, successors and assigns respectively, all such right, title, interest, claim and demand, either at law or in equity, as they or any of them have, may, shall or ought to have in, to or out of the said waterworks or the manors, lands, tenements and hereditaments, upon which the said waterworks are erected, or in, or to any pipes, trunks or branches, which at any time heretofore have been laid by them or their agents, servants or lessees in the said borough of Southwark or liberties thereof, or in the liberties of London or other adjacent parts in the said County of Surrey." [Read 1ª this day; read 2ª on 4 Jan. and referred to a Committee, which was ordered to meet on the 8th* (L. J., XV. 329, 333). On 22 Jan. Counsel were heard at the Bar on the two Petitions of the 8th and 15th inst.† *The Recorder, Mr. Lovell* (for the City) states the nature of the Bill. The City are much concerned in this case. They are now the undoubted owners

* No entry of proceedings in Com. Book.
† Annexes (*a*) and (*b*).

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of the soil, and have Court leets, &c. *The Common-Serjeant, Mr. Crosse*, heard (for the City). *Sir Thomas Powys* (for Mr. Gulston and the Borough of Southwark upon their Petition): There is a Clause in the Act that he shall not raise any prizes. There is a Clause in the Act that, if we break up the streets, we shall mend them. *Sir Bartholomew Shore* (on the same side): Here is 8,000 barrels of water issued every day, and we only beg the protection of this Act for to secure us. This is a thing of absolute necessity. The Lord Bishop of Winchester is contented. Mr. Gulston has 12,000 yards of pipe, and has a propriety in it to him and his representatives. *The Recorder* and *The Common Serjeant* (for the City) heard in reply. Counsel withdraw. *Moved*, that some had retracted their subscribing Petition, and whether there has been any agreement with the Corporation, and whether money was offered to any person to subscribe the Petition, and whether any was offered money, who did not subscribe. Whether Mr. Gulston had given the Bishop of Winchester's ser[van]ts in this case, or ten[an]ts. *Agreed* to call in the Counsel again, who being come in, the *Lord Keeper* told them there was matter of fact; which they offered to prove, if so they may go on. Then *Counsel* for Mr. Gulston called Thos: Jackson, Walter Gore, Jo: Gillibrand and Robt. Row, who were sworn. *Jackson* says he heard that Mr. Paterson had some water-works. He said he had, but he could not say what they were worth. I said there was some for Southwark, and I am concerned in that also, but I cannot give you an account yet. There is a Bill depending in the House now. *Gore:* At the Warren Coffee-house Mr. Paterson said he was concerned in the waterworks of Southwark, and that he would bring water from Maiting. *Gillibrand:* On Wednesday last, one told me, if I would sign, I should be rewarded. One Mr. Bellamy told me so. I enquired how it stood. Several told me they renounced if the Clause was true, that they should not be raised in their rents for water. This (*illegible*) was a subscriber. *Robert Rowe:* I was walking in Southwark, and several said, "What is the matter of a Petition against us? and there are some go about and say the prices will be raised." I told them, there was a Clause that the price could not be raised. Mr. Fox is his name; then he said, "I renounce." I have 23 or 24 houses, and I pay but 20*s.* a year for my houses, which is not 12*d.* per house. *James Reading* (sworn): I have known the Borough 49 years. When I first came into Southwark, I came to the brewhouse I now live in. Then we were served with these pipes of Mr. Gulston. [As to] the prices, as I increased in trade, I gave more. This house served most of the brewhouses in Southwark. *Richard Smith* (sworn): I have known water conveyed 60 years. The water was conveyed to Mr. Reading's brewhouse. *Thomas Jackson* (sworn): There are 12,000 yards of pipes laid. *The Recorder:* We have considerable men that say several hands were got to a blank paper, and then the Petition was written after. There is a gentleman, a lord of the manor, that says he will not let Mr. Gulston lay pipes in his manor. *Daniel Hoston* (sworn): There was nothing on the paper but a Petition. *Thomas Freeman* (sworn): They brought a piece of paper to me. Said they to him: "There is a tax to be laid on the water, and this is to prevent it." Said I, "I will willingly sign it, for I am raised to 35*l.*. I have but four in my family, and use two barrels at a time, one or two a week." *Thomas Trevet* (sworn): I carried about the Petition to the inhabitants. They said we signed a blank Petition, and that there was a design to buy Lord Mayor's tax, the waterworks. About 22 years since,

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we came to lay the pipes, and had but 12/- apiece, and now we are forced to pay 24/-. I have lived 30 odd years. Mr. Samuel Hall and others desired me to carry about the Petition. They gave me half-a-crown for one day. *Mr. Robert Ford:* I have lived 34 years in the Borough, and I and my neighbours have been oppressed. We heard not of this Petition till 10 days after. There is no need to give money. I have been raised once, others twice. The Hospital from 6*l.* per annum, they are raised to much more. Some raised twice or thrice. *Mr. Samuel Hall* (sworn): I was with many inhabitants, when Mr. Gulston was suing to the Lord Mayor for a lease, and many of the inhabitants complained Mr. Gulston had raised and exhaus[ed] prices. I saw the heads of the Bill, yet I thought the people would be oppressed. Mr. Gulston says he has made no agreement with any Lord whatsoever. Counsel withdrew. *Moved* to know, whether for a public good a lord of a manor's ground may not be broken up, or what kind of a right a lord of a manor has in public highways. *Holt, C. J.*, is heard: I conceive where there is a common street or highway general, it is the lord of the manor's. The question is then common to the public. By law I think it cannot, without the consent of the lord. I think, if anybody digs or puts posts, they are forfeited to the lord. *Rokesby, J.:* The soil is the lord's, and nobody has anything else to do with it, except to pave. *Holt, C. J.:* In a common sewer it is the same. *Resolved*, that the Committee should not be revived, and that the Bill shall not be engrossed (MS. Min.; L.J., XV. 348). The Bill accordingly dropped.]

Annexed:—

(*a*) 8 Jan. 1693–4. Petition of the Lord Mayor and Aldermen of the City of London.—The lordship, manor and borough of Southwark, and all wastes, streets, passages and void grounds in the borough belonging to the lordship and manor were, *inter alia*, granted in Parliament to the City of London in the time of Edward III., and by Charter of Grant and Confirmation in the reign of Edward VI., and the City have since granted liberty to lay pipes there for watering the borough at a considerable fine and rendering 250*l.* per annum to the City. Pray to be heard by Counsel against the Bill. *Signed* Goodfellow. *Endorsed* City Petition. L.J., XV. 336.

(*b*) 15 Jan. 1693–4. Petition of persons signing (on behalf of themselves and others) residing and dwelling in Southwark and the liberties thereof and parts adjacent within the Bills of Mortality in the County of Surrey.—For many years there have been waterworks built and great numbers of pipes laid in the streets for conveying water from the Thames, which waterworks daily furnish water in abundance as well for Petitioners' families as trades. The interest of these works is vested in Mr. Gulston, who purchased the same, under the persons who laid the pipes, and for several years he has served the water at moderate rates and prices. Having expended great sums and being about to expend more on the works, he has at Petitioners' instance presented the Bill now before the House. Petitioners are informed that the City of London, under pretext of being owners of some part of the soil in the streets where some few of the pipes are laid, have granted or are about to grant a pretended authority to break up the streets and ways and to take up the pipes there as laid and as belonging to them because they are put in their soil, with a purpose to destroy the ancient works. Petitioners hope to prove to their Lordships that the pretended Grantees of the City are common projectors, and that

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the pretended interest of the grant is intended to be divided into 600 or 800 shares in like manner as the pretended grant from the City to bring water from Hampstead, and set up by the projectors with a stockjobbing design, not only to prejudice Mr. Gulston's estate, but to oppress Petitioners and others in the price of the water, to their general disquiet and damage and the interruption of their trade by the general breaking up of the streets and ways, which are extremely narrow and strait. Pray their Lordships to deliver them from the designed oppressions of the projectors, which they seek to colour with the specious pretence in the name of the City of London, and to secure Petitioners the enjoyment of their water in the ancient manner. *Signed* by John Perry and 320 others. The names are written on sheets affixed to the Petition itself, which contains no signatures. *Endorsed* as read this day. L.J., XV. 342.

(*c*) 22 Jan. 1693–4. Letter from the Bishop of Winchester to Mr. John Walker, at the House of Lords, as follows :—

Mr. Walker,—Pray inform my brethren of the Bishops' bench that I am fully satisfied from my tenants of the Manor of Southwark belonging to the Bishopric of Winchester, and divers other inhabitants there, that the provision for waters made by Mr Gulston are highly useful, and the design which is now for altering of them, if it take effect, will be very prejudicial to them and the whole borough, and a great damage to the Bishopric for the future. You may be pleased to satisfy any other of the Lords that you find doubting or dissatisfied, as you have an opportunity. I should not have given you this trouble but that I am confined to my bed by the distemper of my old wounds, so that I cannot attend my duty in the House.

I am, your friend,

Westminster, this day. *P. Winchester.*

(*d*) 22 Jan.. Petition of divers inhabitants of the Borough of Southwark, with the President and Governors of St. Thomas' Hospital and divers others concerned. Mr. Gulston having of late endeavoured to vex and oppress the inhabitants of the borough of Southwark and places adjacent by ingrossing and enhancing the price of their water, Petitioners with many others have applied to the Lord Mayor and Court of Aldermen of the City for relief against the growing grievance ; but being now informed that he endeavours to get an Act passed not only to corroborate and justify all his past exorbitances, but to get a right of inheritance to vex and oppress the inhabitants, as well as to divest the City of London of so much of their right of the government and soil and to leave Petitioners without means of redress nor where to complain, and to that end has in a most indirect and clandestine manner, procured a Petition to be signed by a number of persons, for the most part unknown, and full of false insinuations and scurrilous reflections, and of which the principal inhabitants, until they understood it was delivered to their Lordships, were wholly ignorant. It is of dangerous consequence, for some reasons peculiar to the borough of Southwark, that any one should have the power of an Act of Parliament to supply the same with water. Pray that neither Mr. Gulston nor any other may have an Act to serve the Borough with water, but that the inhabitants may have their ancient rights and liberties preserved and be served with water

as aforetime without any new encroachment by a law. *Signed* by Robt. Clayton, President, for the Governors of St. Thomas' Hospital and by 405 others. The names are written on sheets affixed to the Petition itself, which contains no signatures. *Endorsed* as read this day. MS. Min. [No entry in L.J.]

772. Jan. 2. Marshall *v.* Paxton (In error).—Copy Writ of Error, &c., and Transcript of Record, with Tenor of Judgment (L. J., XV. 355 *In extenso*) affixed thereto. William Paxton brought an action against Gilbert Marshall, late of Sellaby, co. Durham, before the Justices at Durham, for having ejected him from the manors of Sellaby, Gainford and Archdeacon Newton, and certain other premises in the parishes of Gainford and Dalington, co. Durham, which Paxton claimed under a lease for 7 years from Robert Gower, Robert Bird and Gerard Conyers. The jury gave a verdict for Paxton, with 9*l.* 19*s.* 0*d.* damages and costs. This verdict being sustained on appeal, Marshall now brings his Writ of Error to the Lords. L. J., XV. 331. [Counsel were first heard on 18 Jan. on the Petition of Plaintiff (Annex (*a*) below). *Sir Bartholomew Shore* (for Plaintiff) states the case. The Petition suggests that, upon alleging diminution, the *Certiorari* is to be returned within 10 days. The distance of the place makes it impossible to return it so soon. I cannot say there is any warrant in law for such a proceeding. *Mr. Northey* (for Defendant): There cannot be such a *Certiorari*, nor will your Lordships grant such a one. Counsel withdraw. *Ordered* that the Petition be dismissed, the Plaintiff to pay 5*l.* costs &c., (MS. Min.; L. J., XV. 346).—The Cause itself was heard on 29 Jan., when, Counsel appearing for Defendant, but none for Plaintiff, the Judgment was affirmed with 40*l.* costs. (MS. Min.; L. J., XV. 355).]

Annexed:—

(*a*) 16 Jan. Petition of Plaintiff. Petitioner has assigned his errors in due time, and also alleged diminution, which is a variance between the Record of the declaration filed in the Court at Durham and the Record certified to their Lordships; but he is informed that by the Standing Order he is bound to cause a writ of *Certiorari* to be sued out of Chancery and to be returned within 10 days after the diminution is alleged, Prays for further time for suing forth such writ &c., being now abroad in their Majesties' service as a Commissary of the Musters. *Signed* by G. Wentworth on behalf of Petitioner. L. J., XV. 344. [Counsel were heard on this Petition on 18 Jan. *See* Notes to first Paper.]

(*b*) 19 Jan. Petition of Richard Marshall and Barrington Eaton, Merchant. Petitioners having obtained a judgment in ejectment against Gilbert Marshall he has brought a writ of error to their Lordships. Pray for an early day for hearing the cause. *Signed* by the Petitioners. *Endorsed* as read this day. MS. Min.; L. J., XV. 346.

773. Jan. 5. Brent's Estate Act.—Amended Draft of an Act to enable Trustees to sell part of the estate of Nathaniel Brent, Gent., deceased, to raise money for payment of his debts and maintenance of his children who are infants. The Lords' Amendments, with the exception of the following, viz., to substitute for the words "being greatly indebted" the words "left issue at the time of his decease, Nathaniel his only son and heir, who afterwards became seized or otherwise intituled of and to all and singular the said premises or the equity of redemption thereof, and the said William Brent," and two drafting amendments (Com. Book, 15 Feb.), are to fill the blanks with

1693-4. — No. 774. the date of the commencement of the trust, to substitute Ralph Sheldon, Simon Harcourt, and Ambrose Holbech for Nicholas Fletcher, of Campden, co. Gloucester, Gent., and John Crosse, of Sutton-under-Brayles, co. Gloucester, Gent., as Trustees. The Commons' Amendments (C. J., XI. 146) are unimportant. [Read 1ª this day; Royal Assent, 16 April (L. J., XV. 335, 417), 5-6 W. and M. c. 35 in Long Calendar.]

Annexed :—

(*a*) 15 Feb.—Certificate of John Hodges, guardian to *William* Brent, an infant, consenting to the sale of the estate according to the Bill and to the addition of Ambrose Holbech, of Mollinton, co. Warwick, Gent., as a fourth trustee. *Dated* 18 Dec. 1693. *Signed* by John Hodges in the presence of Samuel Madocks and John Hooke. [Produced this day in Committee on the Bill. Com. Book.]

774. Jan. 8. Whitehall's Estate Act.—Amended draft of an Act to enable John Whitehall to charge [the] *certain* lands [herein mentioned] with the sum of £. 1,500 towards portions for his younger children. The two Amendments made by the Lords (Com. Book, 19 Jan.) besides the ones marked in the title,* are purely verbal. [Read 1ª this day; Royal Assent, 23 March. (L. J., XV. 336, 402). 5-6 W. & M. c. 22 in Long Calendar.]

Annexed :—

(*a*) 19 Jan. Affidavit of John Brindley, of the Eaves, co. Stafford, Gent., Robert Hurst, of Skamoore, co. Stafford, *Gent.*, *and* George Poyser, of Lockwood, co. Stafford, Yeoman, that they have viewed all the timber in the annexed Schedule, and believe it is of the value therein expressed. *Signed* John Brindley, Robert Hurst, George Poyser. *Sworn* 2 Dec. 1693 before Wm. Nabbs. [Read in Committee this day. Com. Book.).

(*a*)[1] 19 Jan. 1693-4.—The Perfect Account of timber trees of John Whitehall, Esq., drawn up 24 Oct. 1693 and attested by the undersigned, as follows :

	Trees.	£.	*s.*	*d.*
In that part of Lockwood Waste, being about the third part of the wood from the style by the Coale to the bottom next Mr. Morrall's Ground are	436 at	331	10	0
In the middle wood betwixt this above and that which was lately coppyed are	564 at	462	13	0
In that part which is coppyed next Mr. Large's land	559 at	446	12	6
In that meadow paddock Sprink, being a member of Lockwood Waste are	173 at	125	10	0
In the Ox paddock Sprink, being also a member of the said Lockwood Waste, are	125 at	72	0	0
In the Frame Wood	232 at	194	13	6
In the Cockshut Wood	146 at	130	17	0
In the Windy Cliff	92 at	69	10	0
In Reeves Wood	83 at	41	1	6
In the Radd Fence	11 at	5	10	0
In the Round Sprink	57 at	39	0	0
Trees	2,478 at	1,918	17	6

Signed as preceding [Appended to preceding].

* The amendments in the title are made and numbered on the draft Bill, but are not mentioned in Com. Book, and do not appear in the title of the Bill as read 3ª (L. J., XV. 352). In the title of the Bill as it received the Royal Assent the first amendment appears but not the second. (*Ib.* 402).

1693-4. — No. 775.

775. Jan. 8. Dutton v. Howell and others (In Error).—Copy Writ of Error, &c., and Transcript of Record, with Tenor of Judgment of the House (L. J., XV. 354 *In extenso.*) affixed thereto. Sir John Witham, Deputy-Governor of Jamaica, brought an action against Sir Richard Dutton, the Governor, for false imprisonment and detaining of his goods, for which he claimed 13,000*l.* damages. After demurrer, Judgment was given in King's Bench for the Plaintiff, and a *Venire* awarded. Sir John dying in 2 Will. and Mary, the Judgment was revived by *Scire Facias* brought by Richard Howell, Richard Guy, and Robert Chaplyn, his executors. At the return of the *Scire facias*, Defendant demurred to it, and execution was awarded, whereupon a Writ of Error was brought in the Exchequer Chamber, and the Judgment was affirmed. The Writ of Error in Parliament is from this affirmance. The pleadings are set out at length in *Shower's* Cases in Parliament, pp. 24–35, where the case is fully reported. [Writ of Error brought in this day (L. J., XV. 337) The Cause was heard on 27 Jan. *Serjeant Levinz* (for Plaintiff) opens the case. *Sir Thomas Powys* (for Plaintiff) is heard: I would put the case as the Defendant has admitted it to be. *Sir Bartholomew Shore* and *Mr. Northey* are heard for Defendants. Counsel withdrew and the L. Keeper reported. *Proposed* that the Judges be asked whether an arbitrary commitment in the Plantations may be punished by an action here. *Question* put: Whether this Judgment shall be reversed? Resolved in the *Affirmative*. *Ordered* accordingly. (MS. Min.; L. J., XV. 354.)]

776. Jan. 8. E. Montagu *v.* E. Bath.—Petition and Appeal of Ralph, Earl of Montagu, Elizabeth, Duchess of Albemarle, his wife, Christopher Monke and Henry Monke, Esqrs., by Mary Monke their mother, next friend and guardian. In 1689 the Duchess brought a Bill in Chancery against John, Earl of Bath, Sir Bevill Grenvill, Knt., Barnard Grenvill, Esq., Sir Thomas Clergis, Knt., Sir Walter Clergis, Bart., Thomas Clergis, his son, an Infant, Arthur Farewell, Monck Rawlinson, Esq., Thos. Pride, Esq., and others to establish the Will of Christopher, late Duke of Albemarle, dated 4 July 1687, and to have an execution of the several trusts in the Will, and that the Duchess might have the lands and legacies devised to her. The Duke had made the will with deliberation, assisted by the late Chief Justice Pollexfen, and published it comprehending a complete settlement of all his estate and containing his request to their Majesties, in memory of his father and his own services to the Crown, to create Col. Thomas Monke, father of the Petitioners Monke, Baron Monke of Potheridge, to whom and his sons he devised the inheritance of most of his estate, and also appointed a monument to be made for him and his father and mother, and devised a charity for maintaining twenty poor widows in almshouses, with other legacies to his friends and servants. He divided the Will into three parts, each duly signed and attested, and gave one to Col. Monke, since deceased, and another to Lady Elizabeth Pierpoint to be given to the Duchess of Newcastle, and took the third with him to Jamaica, where he republished it a few days before his death. The Duchess further prayed in her Bill that a Will of the Duke, dated 23 August, 1675 and certain deeds of lease and release of July 15 and 16, 1681, alleged to be executed by the Duke, (in which deed of release a power of revocation was reserved to the Duke), and under which the Earl of Bath and the other Respondents claimed, might be set aside. The Petitioners Christopher and Henry Monke about the same time brought a Bill in Chancery against Respondents and others to the same effect; and the Earl of Bath, Barnard Grenvill and Sir Walter Clergis

1693–4. — No. 776. brought a Bill against the Duchess, and the two Monkes and others for proving the first will and the two deeds and avoiding the last Will. The Causes were all heard on July 4 and 8, 1691, before the Lords Commissioners, who decreed that an account should be taken of the Duke's personal estate and applied according to the last Will, as had been also adjudged by the Court of Delegates, but as to the real estate, ordered a trial at law touching the said deeds. A verdict being given for Respondents, the Commissioners took time to consider their judgment, but before giving it, their Commission was determined, and the Lord Keeper, who succeeded them, made a decree on 22 December last, dismissing Petitioners' Bills. Pray that this Decree may be reversed. *Signed*, Elizabeth Albemarle, Montagu, Mary Monck, C. Monck, A. Rawlinson; *Countersigned*, W. Rawlinson, T. Powys, James Sloane. L. J., XV. 336.

[On 17 Jan. the House, on motion that a day might be appointed for hearing the Cause, appointed the 31st for that purpose. (MS. Min.; L. J., XV. 345.)

On 29 Jan. Counsel were heard on the Petition of Thomas Pride.* *Mr. Selby* (for Petitioner): We say it was not in the Duke's power to make the Will or Deed, and that Duke Christopher was not heir to Duke George. We pray a waiving of privilege, to try our title at law or equity. E. Montagu's marriage with the Duchess stopped all our proceedings. *Mr. Sloane* (for Duchess of Albemarle and Mr. Monke): We hope your Lordships will commit the Petitioner for not answering. It was absolutely necessary that Mr. Pride should be a Defendant. If we had had the Decree, it would have bound us and Mr. Pride also, and we hope he shall obliged to answer now. *Mr. Dobyns* (for E. Bath): We resent the affirmation of Duke Christopher not being right heir to Duke George. This seems to retard the hearing of this Appeal in this House. I have the Lord Bath's directions to say he consents to waive his privilege. We hope your Lordships will not give any delay to this Appeal. *Mr. Selby:* If the Lords should decree upon (*sic*) according to the prayer of the Appeal, it will much affect the Petitioner. *Mr. Sloane* is heard and *Mr. Dobyns* and *Mr. Selby*. Counsel withdrew, and the L. Keeper reported. *E. Montagu* declared that after any Order of this House he will waive his privilege in this case. *Ordered*, That Mr. Pride is not obliged to answer to the Appeal and the former Order. That these two Lords do waive their privilege in any suit begun or to be begun, in relation to D. Albemarle's estate, by Thomas Pride (MS. Min.; L. J., XV. 355).

31 Jan. On Motion, *Ordered* that all Exhibits read or used in the Court below, in the Cause, be produced to-morrow, and that a Master in Chancery attend with all Deeds and Counterparts of Deeds in his custody. (MS. Min.; L. J., XV. 356). *Ordered* that all the Judges attend to-morrow. (MS. Min.; L. J., XV. 357).†

1 Feb. Counsel called in, for hearing the Cause. *Sir William Rawlinson* (for Appellants) opens the case. [The Appeal is] to be relieved against Deeds of 15 and 16 July, 1681, set up by E. Bath. As to the real estate, our Bills are both dismissed. I would reduce this to four or five. 1. In reference to this Will of 4 July, 1687, and to the validity of it. 2. In reference to the Deed of 16 July, 1681, which is set up, to prevent us of our estate. 3. Is that, notwithstanding this Deed, that from it till 1688 there was no notice taken of

* Annex (*c*).

† A previous entry (afterwards cancelled) in MS. Min. states: "Ordered, That three of the Judges do attend this House every morning, and afterwards all."

it by the Duke. He made leases, sales &c., as if there had been no such. 4. That the Duke of Albemarle in this Will he has so disposed of his estate, and he has substantially and equitably disposed of his estate. 5. How far this disposition, thus solemnly made, has effect the verdict given on this Deed. We agree we were fairly heard below in all things. The case is: George D. Albemarle, 21 Dec. 1669, he married his son to D. Newcastle's daughter. E. Bath had great expectation of the estate; and opened all these things and spoke to them all. *Sir Thomas Powys* heard. Hopes he may have liberty to reply. When Thompson showed the Deed, he says he engrossed it, and yet E. Bath says he knows nothing of it. Depositions read, vizt. of Sir Robert Clayton, Mr. Parker; Stringer and Crofts, as to the sealing of the Will, Dr. Sloane, Joseph Fountaine, Edward Rayden. The Will is read. Counsel withdrew. *Moved* to adjourn the further hearing of Counsel until another day. *Moved* that when the Cause comes on again, the Respondents proceed. *Agreed* to hear Counsel to proceed in the Cause on the 3rd inst. (MS. Min.; L. J., XV. 357).

3 Feb. Counsel called in to proceed. They read the Will. *Sir Thomas Powys* heard to the Will. The Deed of 1681 read, and they are heard to the Draft of it. Several Depositions read, vizt. of Lieut. Bellasis and others, of Gustavus Adolphus Mell, 20th Interrogatory, and several others, of Mary Monk, Joseph Fountaine and Mary Wright. Articles of Agreement, Sept. 1687, signed Thomas Pride. These Articles are witnessed by E. Bath. [*Counsel*]: We shall not at present further trouble your Lordships with any other evidence. They proceed to further evidence. The Duchess of Newcastle's [Depositions] read. Dr. Sloane's [Depositions] read. They read letters written by D. Albemarle out of kindness to Mr. Monke, directed to several persons in his behalf. He calls him "Cousin Monke." A letter whereby he sends for him over, Jan. 1686. Counsel withdrew. Further hearing adjourned to 5th instant. (M.S. Min.; L. J., XV. 358.)

5 Feb. Counsel called in, *Sir Cresswell Levinz* (for E. Bath) begins and states the case. Replies to what was objected against E. Bath the other days. The Will of 1673 is sealed with the same seal as this was. *Sir Bartholomew Shore* (for E. Bath); We have and can show there was a great friendship to E. Bath by Duke Christopher. In both the Dukes' time it was reported commonly that E. Bath was to be his heir. This Will was accompanied with all endearing expressions imaginable. Is heard to answer the several exceptions as to the obtaining and custody of the Deed. My Lord Bath is not to have Newhall but by the Deed. Sir Barth. Shore being heard out, and being asked how long the reading would take up, they said it could not be done to-night. Counsel withdrew, *Agreed* to proceed tomorrow (MS. Min.; L.J., XV. 360).

6 Feb. Counsel called in. *Counsel* [for Respondents] proceed to read their evidence. They read several Depositions, and also the King's Sign Manual. There is a great difference, say the Counsel for E. Montagu, between the copy and original of a letter, and the word "perfect" is in another hand; and they propose to produce the person that wrote the fac-simile. (They read many letters from the Duke to E. Bath. They read Depositions of Capt. Shaw, James Walker, Mr. Courtney, and several others.) Now we will go on to prove our Deed, and that it was Sir Thomas Stringer's own son that wrote, and his hand has amended it in many places. (Several Depositions read to this.) We will prove the execution of the Deed. (Depositions of Hen.

1693–4. No. 776. Heblethwaite, Andrew Parry and William Crofts read.) We had a verdict for this Will, and this Deed, and we have it here under the Great Seal. (The Verdict read.) They read several Depositions concerning the Duchess's behaviour. In relation to the Duke's altering his Will [Depositions] read of Mr. Lane, Mr. Latten and others. Mrs. Crofts, Liber B., 31 Inter. 49. [Deposition of] Matth : Dod read, Sir Wm. Leveson Gower and John Lennen [?] read. Letter from Jamaica read, to show the Duke's kindness to E. Bath. Counsel withdrew. *Moved*, that to-morrow the Counsel for Appellant be told they may read as to Mr. Bowes pressing the Duke to make a Deed, and also that the Counsel for the Defendant may read in Answer to it. (MS. Min. ; L.J., XV. 360.)

7 Feb. Counsel called in. *Counsel* are told they have liberty to read upon what was objected yesterday against E. Montagu, and also that the other side have liberty to reply to it. [Deposition of] D. Barwick [Berwick] read. Several Depositions read on either side. [Deposition of] Heblethwaite read for the Appellant, and several others. [*Counsel*] : We desire to read to what they read yesterday concerning the pressing the Duke at Jamaica. They read [Answer of] Dr. Sloane to 41st Interrogatory. They read for E. Bath in relation to E. Bath's keeping of his Will out of his Answer in Chancery. They read Sir Walter Clergis' Answer in Chancery. They withdraw, and at the request of both parties, further hearing adjourned till the 9th inst. (MS. Min. ; L.J., 362.)

8 Feb. *Moved* that the Judges be reprimanded for not attendance on this House. The House named the following Lords to draw what shall be said to them : E. Rochester, E. Mulgrave, M. Halifax, E. Nottingham and L. Godolphin. The L. Keeper repeated what he had drawn to be said to the Judges.* The House taking notice that the Judges do not daily attend as they ought, the following Order was made : *Ordered* That all the Judges are hereby required to attend this House to-morrow, immediately upon the rising of the Courts in Westminster Hall, and that they attend here until this House rises (MS. Min. ; L. J., XV. 363).

9 Feb. Counsel called in. *Serjeant Levinz* proceeded for E. Bath and others. We are to take a great scandal from E. Bath. We have proved the great love of the Duke to E. Bath, and that the Deed is good, and other things. Sir Thomas Stringer, that brought the Will to the Duke, was in great disgrace with the Duchess, but after the Will was signed he was in great favour. Was there any reason why the Duke should make this great alteration on behalf of E. Bath ? They have made great slander, which caused us to read many unnecessary things. They have offered things against the essence of the Deed. As to the rasure of the Deed, this is fully disproved. I agreed it was read 1682 (and so he was heard to all particulars). *Sir Bartholomew Shore* : We have read full kindness from the Duke. We read the Signet. The acts of friendship [were proved] by several [Depositions]. We read that E. Bath procured the Garter for the Duke, which he might have had, and we read several letters. We read the solemn preparation and execution of this Will. We read that the Duke had this Will in his closet. There was but one part, and no duplicates. We proved the draft shown. We read the Deed itself, and proved it. Then we showed the exemplification of a verdict, and who were the Jury. Then we read you the unruliness of the Duke with the Duchess.

* All the above words are crossed out in the M.S. Min.

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Then we showed how the Will was produced. (And he was heard out.) *Sir Thomas Powys* was heard to reply to all said by Counsel for E. Bath, and spoke gradually to all the particulars. That which lies on us is that Sir Thomas Stringer's hand is in it. We must acknowledge it is so. My Lord Bath, no question, was preparing for the estate. The matter they rest on is [this]; say they, it is manifest in 1675 the Duke intended us great part of his estate, and, say they, is there not a continued kindness to us? Monk, say they, was a soldier in the Guards; he might not be so big as a general at first; it is wonderful that he that was so fond of his name, should set up this Monk. This may carry the D. Albemarle, who was master of his estate, to do what he did. *Sir William Rawlinson* was heard also in reply: There has been great stress laid on things not effectual. . . .

House adjourned during pleasure for the L. Keeper's ease.

House resumed.

. . . . The proper time to consider this cause is upon the equity part, and not on the Deed. The validity or non-validity of this Deed ought no way to cramp your Lordships in this Cause. We are not unseasonable now, though there has been a verdict. Equity is a collateral matter to the verdict. What this equity is, as the case now [stands, is this]. 1. That a great part of the evidence in this case here and elsewhere has been by pressing things not material in this case, and how the E. Bath has been trusted by D. Albemarle. All that part of the evidence is not in this case. 2. Part is what they pressed. There is a badness of reasons in the Deed, and others why the Deed is good. All these are out of the case. It is the Will of the Duke of Albemarle he has made for the settlement of his estate. The question is not, what made the Duke make the Will, but whether the Will so made, is good. 3. The mysterious part of the Cause. Many things that are in Thompson's and Engleton's Depositions in this case. Thompson says about the time of (*illegible*) he engrossed the Deed at E. Bath's house, and there he finishes this Deed. Both these Deeds were engrossed in 1687. Cites cases of *Dye* v. *Thwaites*, *Pitt* v. *Pelham*, 17 Dec. 1670. (He was heard through.) Counsel withdrew. *Proposed* to have the Report made on the 12th inst. *Ordered* accordingly. The Judges reprimanded for non-attendance. (MS. Min.; L. J., XV. 364).

12 Feb. *The Lord Keeper* reported what was said by Counsel. *Moved*, that the debate of this business be resumed to-morrow at 11 o'clock. *E. Montagu* asks if Counsel should attend to-morrow. *Moved*, that the Judges attend to-morrow. *Ordered*, that the debate on the Report be adjourned till to-morrow. [In the margin the following cases are cited, viz.: *Smith* v. *Ashton*, *Horne* v. *Newman*, *Bodmin* v. *Winn*, (*Illegible*) v. *Philpot*, *Pitt* v. *Pelham*, *Dye* v. *Thwaites*, *Ward* v. *Booth*.] (MS. Min.; L. J., XV. 366.)

13 Feb. Debate on Report resumed. Cases mentioned in the debate. *Dye* v. *Thwaites*, a seal wanting supplied. *Bradley* v. *Bradley*, a surrender supplied. *Pitt* v. *Pelham*, you have where there was a devise wanting; you have decreed against the heir. *Heale* v. *Ring*, they had mutually agreed to convey their estates; Ring was decreed to release his conveyance. [In] the case of *Guy* v. *Dormer* there was a power of revocation. *Englefield* in Coke's Reports. The Case of *Sir Richard Temple* upon the Act of Frauds and Perjuries. After a long debate, and the day spent in the case, *Question proposed*, whether the dismission of the Court of Chancery shall be reversed? *Proposed* to adjourn the debate until to-morrow, and then consider the Precedents

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mentioned this day. *Moved*, that one Counsel on either side attend to-morrow to speak to the Precedents. Further debate adjourned till to-morrow. (MS. Min.; L.J., XV. 367).

14 Feb. Debate resumed. *Moved*, that Counsel be called in to open the Precedents mentioned by them at the Bar and in the debate. *Agreed*, that but one Counsel shall be heard on either side, and that the Lord Keeper acquaint them so, and that they open only those Precedents they think material. *Moved*, that the Counsel be confined to open no Precedents but what concern voluntary settlements. *Counsel* called in to open the Precedents, and told by the *Lord Keeper* that but one Counsel is to be heard on either side, and they are to open only those Precedents that are material, and they direct you first to speak to the Precedent of *Grenvill* v. *Trelawney*, and that when one Counsel opens a Precedent the other Counsel is to be heard to it. *Sir William Rawlinson* begins with the case of *Trelawney* v. *Grenvill*: In the evidence of the Cause there is a sheet cut off in the Will, and there are more words in the engrossment than in the draft. In this case it was decreed that the estate be held *quousque*, until the Deed be produced; and opens the case. *Sir Bartholomew Shore* is heard to this: This need not [have] been opened in this Cause, as Mr. Serjeant says, I will not meddle with what the power of Chancery is, to supply a Deed wanting. They offer to read the Depositions in the Cause. Counsel withdrew. *Moved*, that this Precedent may be thoroughly heard and read to, as it stood in the Courts below. *Ordered*, that the House proceed further in the consideration of the Cause on the 16th inst., and that the original Records of Depositions, Bills or Answers in the Courts below shall be produced by the officers in whose custody they are. (MS. Min.; L. J., XV. 368.)

16 Feb. Debate resumed. *Counsel*, being called in, proceeded to open the precedent of *Trelawney* v. *Grenvill*. *Sir William Rawlinson* opens the case, as it stood when heard 40 years since. That Deed the E. Bath promised to return, and was not was (*sic*) a true copy of the Deed upon which the Cause stayed. *Sir Bartholomew Shore* acquaints the House that they can find no Depositions in this case on their side. Counsel withdrew. *Moved*, to proceed to hear this case opened by the Counsel. After Debate, Counsel called in again and told they are to proceed to read the Depositions. *Sir William Rawlinson* said they would read the Depositions, which they did. Depositions of Robt. Roberts, Wm. Mathews and John Hodge read. They read several Depositions and the Decree in 1656. They read E. Bath's answer. *Sir Bartholomew Shore* heard to the Precedent. They (*sic*) I find this applied to several uses. I will show that this Decree was unjust and made when the Seal was in Commission and My Lord Bath a Cavalier. *Sir William Rawlinson* opens the Precedents as to the Duke's power of revocation. 21 May, 15 Car. II. *Lady Viscountess Cranborne* v. *Dalmahoy* upon a Bill of Review. There was a settlement made by my Lord Durlton, and the Cause was between sister and sister. The Chancellor Clarendon. There was the Bill brought. The Decree is affirmed, and the Bill of Review dismissed. They read the Decree. *Sir Bartholomew Shore* heard in answer to this Precedent. This Precedent is mis-put in the printed Paper. There was a mortgage made in fee, and so no livery could be made in it. *Sir William Rawlinson* opens the cause of *Pitt* v. *Pelham*. Mr. Sherley makes his will and devises it, after the death of his wife, to be sold, with particular instances to persons named. This land, on his death, descends to the heir-at-law. They

read the Order in Chancery; 17 Dec. 1670. Judgment of this House. *Sir Bartholomew Shore*, in answer to this: This is merely the construction of a will, and it was justly construed in this House the heir shall sell them. *Sir William Rawlinson* opens the case of *Smith* v. *Ashton*, 27 Car. II. *Sir Bartholomew Shore* heard to reply. *Sir William Rawlinson* opens the ease of *Popham* v. *Bampfield*. *Sir Bartholomew Shore* is heard to reply. *Sir William Rawlinson* instances the case of *Thwaites* v. *Dye*. *Sir Bartholomew Shore* agrees [to] this case, but not to this purpose, it being for an infant. *Sir William Rawlinson* offers the case of *Heale* v. *Ring*. *Sir Bartholomew Shore*: In the printed Paper it appears this case is not to the purpose, and that it is a great fraud. We say none of the cases mentioned come to the case in question. He is heard in respect of Precedents in general, and recites some cases of one *Pricket* v. *Portington*; *Fry* v. *Porter*, he opens it. *Sir William Rawlinson* heard in reply. Counsel withdrew. *Ordered*, that the Report of the Precedents be made to-morrow, and that all the Judges attend and that all the Lords be summoned and told the reason, which is to proceed in the consideration of the Cause. (MS. Min.; L. J., XV. 371.)

17 Feb. [*Moved*, that the debate of the cause shall be adjourned to Monday, and that all the Lords be summoned then to attend, under a severe penalty, and send two witnesses to attest upon oath their disability by sickness].* Consideration of Precedents resumed. *Moved*, that the Judges be heard upon the several Precedents heard at the Bar yesterday. The House went on with the debate of the Cause, and after a long time spent therein, *Moved*, that the Judges be asked [as to] the case of *Guy* v. *Dormer*. The Judges heard. *Holt, C. J.*: The point was, as put, there was a settlement made by Dormer, with a power of revocation. He made a Will quite contrary. The question was, whether this was a revocation by express words. It was held a revocation by express words. *Treby, C. J.*: We did not practise much in the Exchequer. *Moved*, that the Judges give an account of the case of *Guy* v. *Dormer* on Monday next. *Question* proposed, whether the debate shall be now adjourned? Resolved in the *Negative*.† Contents 28; Not-Contents 38. Tellers, E. Rochester and V. Newport. Then the House went on with the debate. Leave given to protest on either side. *Moved* that, if any Lord be here, that did not hear the Cause, he do withdraw. *Named* the E. Strafford, E. Bristol and E. Sandwich did not hear the Cause. *E. Strafford* says he was here. *E. Sandwich* says he was here when Counsel [were] at the Bar. *E. Bristol* was withdrawn. *L. Granville* withdrew of his own accord. *Question* put, whether the Dismission of the Court of Chancery shall be reversed? Resolved in the *Negative*. Contents 29; Not-Contents 32. Tellers, E. Bridgewater and E. Manchester. Appeal dismissed and Dismission of the Court of Chancery affirmed, without prejudice to the claim of Pride. Protest thereupon. (MS. Min.; L. J., XV. 373).

19 Feb. *Moved*, That the Order or Judgment [be] now read in the Cause. *Moved* to add several words to the end of the Order, to have liberty to go to law. *Agreed* that the Order be not entered till further

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* The words in square brackets are struck through.

† Here the following words are struck through: "Then this Previous Question put, Whether this Question shall be now put?"

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order.* (MS. Min. No entry in L. J.) For further proceedings see Notes to Annex (*e*) below.]

Annexed :—

(*a*) 17 Jan. 1693–4.—Answer of John, Earl of Bath, Bernard Granville, Esqr., Sir Bevill Granville, Sir Thomas Clarges, Knt., and Sir Walter Clarges, Bart., and Thomas Clarges the Son. The Will of 1675, which has been scandalously impeached, was a just and honourable settlement of the estate upon the nearest and most deserving kindred, and was upheld by the Lord Keeper, assisted by the two Chief Justices and Baron Powell: Pray that the Appeal may be dismissed with costs. *Signed* by Respondents; *Countersigned* by Cresswell Levinz and Bartholomew Shore. *Endorsed* as brought in this day.

(*b*) 24 Jan. 1693–4.—Answer of Arthur Farewell, Esq. Respondent hopes to have all such advantages as were intended for him by the Duke either by the Will of 1687 or the deeds of lease and release, and submits himself to their Lordships' judgment. *Signed* by Respondent; *Countersigned* by Phillips Farewell. *Endorsed* as brought in this day.

(*c*) 26 Jan. 1693–4.—Petition of Thomas Pride, son and heir of Elizabeth Monk, daughter and heir of Thomas Monk, eldest brother of George, late Duke of Albemarle. By the death of Christopher, late Duke, without issue, the real estate of George, Duke of Albemarle, descended to Petitioner's mother and since to Petitioner, as Duke George's right heir. The Duchess and Ralph, Earl of Montagu in her right, and John, Earl of Bath have possessed themselves of Duke George's estate and claim the same in Chancery, and by making Petitioner a party to the suits, endeavour to conclude his title. The Earls, although insisting on privilege, and thus preventing Petitioner from asserting his right by a trial at law or otherwise, have mutually agreed to waive their privileges as to all persons who pretend any title to the estate, which agreement is concealed from Petitioner. Prays for leave to proceed at law or in equity for recovery of the estate, and that meantime he may not be compelled to answer the Appeal. *Signed* by the Petitioner. L. J. XV. 355. [*See* Notes to first Paper under 29 Jan.]

(*d*) 31 Jan. 1693–4.—Answer of Monke Rawlinson, Esq., Respondent, by Roger Moore, Esq., Serjeant-at-Law, his Guardian. In case the first will and deeds should be upheld, Respondent is still entitled to some lands. The Duke always showed great respect and kindness to Respondent and his father and mother, and intended, as he has reason to believe, to provide liberally for him. *Signed* by Roger Moore; *Countersigned* by William Lowther. *Endorsed* as brought in this day.

(*e*) 20 Feb. 1693–4.—Petition of Ralph, Earl of Montagu, Elizabeth, Duchess of Albemarle, his wife, Christopher Monck

* *Luttrell* (20 Feb. 1693) has the following: "Yesterday the Order to affirm the decree for the Earl of Bath in the House of Lords being read over, the Lord Nottingham made a motion to suspend entering the same, for that there might be some salvo to the Earl of Mountague to try the validity of the deed again at law, and 'twas deferred to this day, when the Lord Mountague petitioned the House of Peers for a rehearing, and their lordships have ordered presidents to be searched and reported on Fryday."

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and Henry Monck, Esquires. Pray that their Lordships, in such order as they shall pass, may give such direction as may not prejudice or preclude any trial of the validity of the deeds which they have spent several days in considering, and that Respondents may be ordered at such trial to produce all such writings and exhibits as have been before the House or in the Court of Chancery, and that they may not give in evidence any lease or incumbrance whereby to obstruct such trial of the validity of the deeds. L. J., XV. 375. [The Petition being read this day, it was *Moved* to hear one Counsel as to E. Montagu's having the exhibits, and whether he has a liberty to go to law as the Order now is. *Moved* that the Judges be asked whether the Exhibits in Chancery and this House may be had at the trial? Whether E. Montagu, at a trial at law, can come at the Exhibits used here, without the Order of this House. *The Lord Keeper*: The Defendant at law can be compelled to produce no evidence but what he pleases, but in Equity it is quite otherwise. The Equity orders the trial to satisfy the Court, upon which a future Judgment is to be given. The Court of Equity can never touch it more, they having judged it. *The Lord Keeper* is asked, if after he had decreed, he could have ordered the exhibits there? *Answer:* All exhibits that E. Montagu had, he must have had, and all the E. Bath [had] he must have had, but it would have been absurd for the Chancery to order it. *Moved* to dismiss the Petition. *Moved* that the Clerks search for precedents, if at any time, after a Cause dismissed here, the House has ordered the Exhibits made use of here to be made use of at a trial at law, without directing that trial. The Clerks to report on 23rd inst., and all the Lords to attend. (MS. Min.; L. J., XV. 375.)—23 Feb. Clerks' Report to be made to-morrow. (MS. Min.; L. J., XV. 377.)—24 Feb. Order or Judgment of the House of 17th inst. read. E. Montagu's Petition of 20 Feb. and the order thereon, read. The following precedents read, vizt.:

Dodd v. *Burrowes*, 30 April, 27 Nov. and 19 Dec. 1690.*—This is to support that part of E. Montagu's Petition that he may not be precluded from Law.

Englefield v. *Englefield*. 21 Jan., 9 Feb., and 13 March 1692–3.†

Sedgwick v. *Hitchcock*. 20 Dec. 1690; 21 Nov., and 4 Dec. 1691.‡

Barret v. *L. Loftus*. 21 Feb. 1672; 10 May 1675; 3 May 1642.§

A precedent of Chancery read. 25 Nov. 2 Car. II. in *Richards* v. *Harcourt*. Then the House went into debate of E. Montagu's Petition. *Moved* to dismiss the Petition. The question is, whether it be within the jurisdiction to make such addition to the Judgment as prayed by E. Montagu. *Moved* that E. Montagu have leave to withdraw his Petition, but not on his behalf. Owned none of the precedents come up to this case. After Debate, *Question* put, Whether this Petition shall be dismissed. Resolved in the *Affirmative*. Contents 30; Not-

* *See* L. J., XIV. 480, 568, 598, and Calendar.
† *See* L. J., XV. 194, 222, 286, and Calendar.
‡ *See* L. J., XIV. 601 657, 672, and Calendar.
§ *See* L. J., XII. 535, 686.

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Contents 28. Tellers, E. Bridgewater and E. Thanet. Petition dismissed accordingly. Protest thereupon. Judgment read and confirmed. (MS. Min.; L. J., XV. 378.) For further proceedings see Notes to next Paper.]

(*f*) 7 March 1694–5.—Petition of Ralph, Earl of Montagu. Their Lordships not having thought fit to give any directions on Petitioner's last Petition, he moved the Court of Chancery to do so, but in vain. There has since been a trial at law, at which the Earl of Bath declined to produce some of the exhibits formerly produced, as well as several letters pretended to have been received from the late and former Dukes of Albemarle, some of which were alleged to have been sealed with the same seal which made the impression on the pretended deeds; and another trial is to be had next term, at which the validity of the deeds will be in issue, when it will be again entirely at the will and pleasure of the Earl of Bath, which of the exhibits he will produce and which keep back. Prays that the Earl may be ordered at such trial to produce the unsealed parchment writing cut at the top and bottom, ingrossed by Mr. Thompson, the Abstract of the deeds produced by Errington, the Draft of the deed, cut at the bottom of one of the leaves, the Will of 1675, the Duke's blotted letter to the Earl, and other letters from Duke George and Duke Christopher, formerly given in evidence by the Earl, together with the rest of the Exhibits produced by him in Chancery. Signed *Montagu*. *L. J.*, XV. 512. [After reading the Petition this day, the Orders of 20 and 24 Feb. 1693–4 were read. On motion, consideration of Petition to be resumed on the 9th inst., and all the Lords to attend. (MS. Min.; L. J., XV. 512). —9 March. *Moved* that they be heard by their Counsel whether they have proceeded so regularly in the Court of Chancery, as that this Petition comes properly before this House. Whether they have demanded the Exhibits in the Court of Chancery (to be produced at a trial) so regularly as that E. Montagu's Petition comes properly to this House. That they offer to this House in what manner they demanded the Exhibits in the Chancery. To know whether they demanded the Exhibits in the Court of Chancery regularly. *Ordered* to hear Counsel on 15th inst., whether the Petition of Appeal is brought properly before the House (MS. Min.; L. J., XV. 515).—15 March. Counsel called in. *Mr. Finch* (for E. Montagu): The question is, whether it was regularly asked below. The Bill below complained of several things. This Deed was obtained by surprise upon D. Albemarle; Prayed relief generally upon the whole matter. There was a Motion in Court that there were two Exhibits that were not produced. As it stands after the Dismission, whether the case stands as it was. The cause, they say, is out of Court. Being denied below, we think it proper to be asked here. *Sir Thomas Powys*: We think it strange that E. Bath may produce his own evidence. They offer [that] our prayer is not proper. They say we have no foundation for such a prayer, and that it is in the nature of an original cause; (2) that this has been asked formerly and exploded here; (3) that we ask that which is done; (4) that this is too frivolous for this House. The letters, they say, are not in the Cause. Our Bill says, the confederates have got into their custody many

letters, &c. That the said pretended Deed, and the draft thereof, be brought. This Bill was in the year 1690. There were two letters produced in Chancery, with the same seal as the Deed was. We do not ask an issue to be directed to us of the Court of Chancery. We only say, pray let us have a fair trial at law. The Bill is depending in Chancery, and being denied there, we hope we are properly here. *The Solicitor General* (for E. Bath): There have been two solemn trials as ever in Westminster Hall, and both for the Earl of Bath. The Petition now desires Exhibits by name. Now as to the particulars mentioned, it is as if my Lord Bath had not produced [them]. They were all produced, which they cannot deny. Now, whether you should order them to be produced, is the question. They must maintain this to be a Petition of Appeal, otherwise it is nothing; and if a Petition of Appeal, it must be signed by Counsel. As to the nature of the Petition, whether it is part of the relief prayed in the Bill or not, it is as much as one, for, as the Bill is, the Court had no power. This is so new, that there can never be any end whatsoever. Upon the Appeal this could not be asked, and therefore much less now. *Sir Bartholomew Shore* (for E. Bath): There never was such a request as this was. We desire no favour. There is not a Cause heard here these seven years, but may be again brought here. They have no trial depending. We have a trial. Can your Lordships order the Court of Chancery to do anything on this. This is an Order to reach from generation to generation. They have had what they desired, and now they come for a final Decree. We hope this cause may have an end. *Mr. Finch* heard in reply. Counsel withdrew. *Ordered* that the Report of this business be made on the 18th inst. (MS. Min.; L. J., XV. 519.)

18 March. *The Lord Keeper* reported what was offered by Counsel. *E. Bath* spoke as to a personal reflection by the Counsel of E. Montagu on him as to Shaw's letters. The Question [was] whether this Petition is properly before this House. After Debate, *Proposed* to ask the Lord Keeper whether there might not have been relief by Bill. After further Debate, *Question* put: Whether this Petition is brought properly before this House? Resolved in the *Negative*. Contents (including 4 Proxies) 35; Not-Contents (including 4 Proxies) 37. Tellers; E. Nottingham and E. Rochester. *Ordered* that the Petition be dismissed. (MS. Min.; L. J., XV. 521.)

777. Jan. 11. Silk (Italian, &c.) Importation Act.—Petition of several of the Mercers of London. The Clause in the Bill for importation of fine Italian, Sicilian and Naples Thrown Silks over land, which restrains the silks so imported to be for the proper account of subjects of this Kingdom only, will be very disadvantageous to the Silk trade, and benefit only a few private persons, who intend to engross the said commodities. Pray to be heard against it. *Signed* by the following:—

Ro. White.	Sam. Bucknall.	Richard Lowfield.
Neville Leenan.	Edw^{d}. Rigby.	Henry Passer.
Rich^{d}. Turner.	Da. Pugh.	W^{m}. Verey.
Windsor Sandys.	Isaak Fullie.	Geo. Mason.
Tho. Henshaw.	John Pearson.	Thomas Bee.
Ben. Prince.	Tho. East.	Henry Bee.

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Tho. Kynaston.	Tho. Gratwick.	Pr. Cheshyre.
Benja. Raye.	John Martyn.	John Geast.
Tho. Alehorne.	Edw. Harris.	William Thatcher.
Jos. Whiston.	Aaron Dally.	Charles Thatcher.

Endorsed Mercers of London Petition against Thrown Silk Bill.

[Read this day, and leave given to Petitioners to be heard in Committee. (L.J., XV. 340.) The Bill was brought from the Commons on 22 Dec. (*Ib.* 327), and referred to a Committee, after a second reading, this day. (*Ib.* 340).—In Committee on 13 Jan. (E. Stamford *in the* Chair) the Bill was read entire. The Petitions of the Mercers (Paper above), the Merchants (Annex (*a*) below) and the Throwsters (Annex (*b*) below) are read. The Petitioners are called in. *Sir Bartholomew Shore* (for the Italian Merchants and Mercers) : We oppose no part of the Bill save the last Clause. We desire the Bill may pass. This Clause contradicts the purport of the Bill, and will defeat the end of it. The design of the Bill is cramped by this Clause. If the Italians may not import, they will endeavour to get an Edict that the English may not import into their country. The King of Spain's subjects owe [? own] a great part of these silks imported. *Sir Gabriel Roberts* (on behalf of the Turkey Company): If you give away the trade to foreigners, the Turkey Company will be ruined. *Mr. Faulkner :* This Bill will not much affect the subjects of Spain. It will mainly affect the subjects of the Duke of Florence, in whose territories none of our woollen cloth can be disposed. *Sir Bartholomew Shore :* Except at Florence, the English cloth is not prohibited. *Weavers :* Many people have already perished, and more will perish, if the Bill does not pass. We shall be content with the Bill, either with or without the Clause. *Throwsters :* Many thousands are in straits for want of employment. We pray that, to set us on work, raw silk may come by land. In 1662 they employed 44,000 workmen ; now they employ 5 Spinnells, where they then employed one. *Mr. Faulkner :* This Petition is brought in by a very few Throwsters. Their main body, who are a great Company, disown it. *Mr. Hunt :* There is not two months' work of raw silk in England now for the Throwsters. The Throwsters are 200,000 persons. *Turkey Merchants :* There is Italian silk raw enough come in to employ all the Throwsters near a year. *The Weavers :* The Throwsters are not near the number they allege. They are inconsiderable in comparison of us. They withdraw. *Question :* Whether the Bill shall be now read by paragraphs ? *Contents* 7 ; Not-Contents 7. Resolved in the *Negative.* [The Parties are called in. They are asked.]* (1) How many Throwsters there are ? (2) What quantity of raw silk is now in England, and what sorts to be thrown ? (3) How long it will employ the Throwsters ? *The Clerk* is directed to let the Merchants and Throwsters know that they are to come prepared to answer the above-mentioned Questions on the 15th.—On 15 January. Bishop of Salisbury in the Chair, the Committee met only to adjourn till the next day.—On 16 March, the Bishop of Salisbury in the Chair, the Parties are called in. *The Throwsters* are asked how many they are ?—*The Beadle of the Company* says they are 80,000 persons. *Isaac Jackson*, one of the Assistants, says he believes they are 30,000. We have 120 Master Throwsters, some one of these have 500, 600, or 700 workmen. *Sir Gabriel Roberts* . . . . *Mr. Faulkner* (for the Turkey Company) : Four months since there were 1,600 bales of silk, since that, have been imported 700 bales. Since that, there have

* The words in square brackets are struck through.

not been employed 10 bales per month. Delivers in an Account thereof in writing.* *Mr. Hunt* says he believes there is not so much silk as is pretended, and that which there is, is in few hands, and will not be sold but at great rates. *Mr. Faulkner* says Ardas silk is now but 17*s.*, and he has known it 26*s.* *Mr. Hunt:* Silk is adulterated, [and] is now much worse. 8*s.* or 9*s.* was the price before the War. He believes it has been sold at 7*s.* 6*d.* They withdraw.—17 Jan., E. Mulgrave in the Chair, the Bill is read by paragraphs. Leave out from ("notwithstanding") in Sh. 2, line 31, to the end of the Bill. *Ordered* to be reported with this Amendment. (Com. Book, of dates.) 1693–4. — No. 777.

The Bill was returned from the Commons on 20 Jan. with this Amendment agreed to (L.J., XV. 347. C.J., XI. 65) and received the Royal Assent on the 25th. (L.J., XV. 351.). 5 W. & M. c. 3 Fol. Edit.]

Annexed :—

(*a*) 11 Jan. 1693–4.—Petition of Joseph Cagnoni, Angelo Corticelli, Guiseppe Como—and Antonio Francis Magnoni. Petitioners are Italian merchants, who have resided in England several years, and their chief trade is to and from Italy upon their own and correspondents' accounts in those parts, for which they pay double duties to their Majesties, being aliens. Petitioners export great quantities of clothes and other manufactures of the nation in return for such goods as they import, to the great advantage of this Kingdom. The clause in the Bill restraining the importation to be for the proper account of subjects of the Kingdom only was added without giving Petitioners any timely notice. Pray to be heard against it by Counsel. [Read this day, L.J., XV. 340.

(*b*) 11 Jan.—Petition of divers Throwers of Silk, in behalf of themselves and multitudes of poor Windsters thereof, in and about the City of London. The subsistence of Petitioners and their families has been by throwing or twisting of raw silk from Turkey, and vast numbers of poor people have been supported by winding the same. The interruption of the Turkey trade, whereby these sorts of silks are become very scarce and dear, has greatly distressed many of them, and of poor Windsters as well as Weavers, for want of work. The Bill, which has passed the Commons, on Petition of the Weavers, will not avail but rather prejudice Petitioners, whereas by importing raw silk of Turkey overland, not only the Throwsters and multitudes of poor Windsters, but also Weavers and other manufacturers of silk will be advantaged. Pray that liberty may be given to English merchants to import overland all sorts of raw silk, which usually come from Turkey, with such restrictions and limitations of time and otherwise, as may obviate the inconveniences of an indefinite liberty, that Petitioners, and the poor Windsters employed by them, may not in this great dearth of corn, be driven to extremity for want of means to subsist. *Signed* by John Hurst and 54 others. L.J., XV. 340.

(*c*) 16 Jan. 1693–4.—The Turkey Merchants' Account of Silk, as follows :

* Annex (*c*) below.

1693–4. — No. 778.

"A computation given in to Her Majesty about the month of September last of what silk was then in town, and since that time but a very inconsiderable quantity has been sold.

	Ardass.	Fine.
In the hands of Members of the Levant Company -	520	166
In the hands of warehouse-keepers for ingrossers -	115	19
In the hands of Silkmen - - - - - - -	51	204
In the hands of Throwsters - - - - - -	100	200
B^r - - -	786	589
Chests of fine China silk - - - - - - -	- - -	120
Fine Italian silk - - - - - - - - -	- - -	171
The then Computation was - B^r - - -	786	880
Besides what was then in the hands of men that would not discover it.		
Arrived in London since the above Computation :		
By the ship Beaufort from Livorne - - - - -	- - -	400
Raw silk from Italy overland - - - - - -	- - -	100
From Holland by Her Majesty's permission - -	- - -	100
B^r - - -	786	1,480

Besides quantity of Italian raw silk now upon the way."

Endorsed as dated. [Read in Committee this day. *See* Notes to first Paper.]

778. Jan. 11. Grove *v.* Mathew and others.—Petition and Appeal of Huttoft Grove. Gabriel Huttoft, by his will in 1649, left a debt of £5500 from Sir John Crooke, secured by statute to Appellant. Appellant's father Thomas, as his executor, proved the will, and £5000 being still unpaid, Sir John sold to him the manor of Dibdin, in the county of Southampton, in trust for Appellant and for satisfaction of the debt, and it was agreed that the two statutes should remain a security to make good and protect the estate so sold. But there being incumbrances on the estate prior to the sale (of which Appellant's father had no notice) Sir John afterwards sold to Thomas the rectory of Sapley and Ripley, in the same county, for £2800, out of which, after paying £20 to Sir John and discharging the incumbrances on the rectory, a mortgage to one Churchill of the manor of Dibdin was to be satisfied. The amount, however, proving insufficient by £1000 to satisfy this mortgage, Thomas was forced to do so out of his own money. Appellant, after his father's death, having taken out letters *de bonis non* of Gabriel Huttoft, extended some of Sir John's estate subject to the statutes. Thereupon Jane Mathew, widow, Henry Limbrey, William Hall, John Fulks, Thomas Wattson, Ann Clisby, Thomas White, Susan Gurney and Jane Saunders, who had since purchased some of the estate, brought a Bill in Chancery against Appellant, pretending the statutes were fully satisfied, and the Court decreed him to assign the extended lands to the two senior Six Clerks in trust for them. The Decree is erroneous, no proof having been given that Appellant or his father were ever satisfied the money they paid in discharge of the incumbrances, of which £1000 still remains unpaid. Pray that the Decree may be reversed and Respondents ordered to answer. *Signed* by Appellant; *Countersigned* by P. Bowes and C. Whitelocke. L.J., XV. 340. [The Cause being called on for hearing on 20 Feb., no Counsel appeared for Appellant. *Mr. Bronskell* being heard for Appellant, says they were

not satisfied about the account. The Appeal was then dismissed. (MS. Min.; L.J., XV. 375.] 1693–4. — No. 779.

Annexed :—

(*a*) 19 Jan. 1693–4. Petition of Wm. Randall, Clerk in Chancery. Prays for further time to answer, the Respondents living in the country, some in Oxfordshire and others in Hampshire. L.J., XV. 346.

(*b*) 29 Jan. Joint and several Answers of Jane Mathew, Widow, Henry Limbrey, Wm. Hall, John Fulkes, Thomas Watson, Ann Clisby, Thomas White, Susan Gurney and Jane Saunders. Respondents were bonâ fide purchasers of the manor of Chilton, co. Bucks, and several other lands, previously the estate of Sir John Croke or Dodsworth Croke, his son, and enjoyed the same unmolested until very lately. The statutes in question had been formerly extended, and Respondents' lands, amongst others, taken in extent, but the extent was taken off, after satisfaction had been made, and the incumbrances were kept on foot to protect the said lands, as well as the rest of Sir John's estate, and therefore no use ought to be made of them except to protect the purchasers. The Lords Commissioners on 20 February last ordered the lands to be assigned accordingly, and enjoined the Appellant not to prosecute Respondents at law. Pray that the Appeal may be dismissed with costs. *Signed* by Respondents. *Endorsed* as brought in this day.

(*c*) 16 Feb. 1693–4. Petition of Respondents for a copy of certain Articles made between (1) Sir John and Charles Crooke, and (2) Richard Ashby, which are now in the custody of the Appellant or his Clerk in Court, and were made use of in Chancery. *Signed* by Jane Matthew* only. L.J., XV. 370.

779. Jan. 12. Mason *v.* Rowland (In Error).—Copy Writ of Error and Transcript of Record, with Tenor of Judgment (L.J., XV. 357. *In extenso*) affixed thereto. The Writ of Error is from a verdict and judgment, in an action of ejectment brought by Edward Rowland against Anthony Mason, giving Rowland possession of a house in the parish of St. Mary Woolnoth, London, which had been let to him by Sarah Fleetwood, widow. [Brought in this day (L.J., XV. 341.) The Cause was heard on 31 Jan. *Sir William Thompson* (for Plaintiff): This is a case of compassion, if your Lordships can relieve us. *Sir Bartholomew Shore* and *Mr. Northey* heard for Defendant. Judgment affirmed with £.5 costs. (MS. Min.; L.J., XV. 357)].

Annexed :—

(*a*). 22 Jan. 1693–4. Petition of Plaintiff. Petitioner is sued for a house of the late Edward Backwell, assigned to his creditors by the Commissioners of Bankrupt. The Cause was tried on 23 Nov. last, and a verdict was had by default, and Judgment was signed on 20 Dec. The Record was not brought into the Treasury till 11 Jan., and not delivered to the House till the 12th. Prays that his Errors may be accepted. *Signed* Antho. Mason. *Endorsed* as read this day, and another Petition set aside. [No entry in L.J. The M.S. Min. of date have the following cancelled entry : "Ordered, that the Judgment be and is hereby affirmed, and the Record remitted."]

* This is plainly her autograph. The signature to preceding looks like a copy.

1693–4. — No. 780.

A further entry on the same day (also cancelled) is as follows :—"Upon the petition of Mason, and his assigning errors before the House rose, the Order in the Book of this day is set aside."

(*b.*) 22 Jan. Petition of Defendant. Plaintiff has brought the Writ of Error merely for delay, and has not yet assigned Errors. Prays to be dismissed with costs. *Signed* Ed. Rowland. *Endorsed* as read this day, and the Judgment affirmed. No entry in L.J.

(*c.*) 23 Jan. Petition of Defendant for a short day of hearing. *Signed* Ed. Rowland. L.J., XV. 349.

(*d.*) *Undated.* Paper stating that Alderman Backwell, on his son's marriage, (which was several years before any pretended bankruptcy) settled the house in question upon his son and daughter for life, and afterwards to their heirs. One Snagg, in the name of Fleetwood, purchased a lease of Mr. Backwell for his life, on purpose to dwell in. Mason, who was tenant in possession, finding he could not renew under Backwell, although his term expired at Midsummer last, refused to give Snagg possession, upon which an ejectment was brought, and a verdict obtained, to prevent which a Bill was brought in Exchequer and another in Chancery, and several motions made for an injunction, which being always denied, they brought their Writ of Error for delay. If they pray longer time than is usual *to assign* Errors, Your Lordship please to oppose the Petition. No entry in L.J.

780. Jan. 18. Vivian's Estate Act.—Consents of John Vivian, Tho. Vivian, Jos. Sawle, John Sawle, Mary Vivian, Sim. Leach, Anne Leach, James Beauford, Jane Beauford, J. Exon. [Jonathan, Bishop of Exeter] Cha. Trevanion, William Blathwayt and John Butter to certain Proposals (signed by J. Molesworth and Ri. Scobell 4 Nov. 1693) "in order to the getting an Act to enable John Vivian, Esq., and Thomas Vivian, his son and heir, to sell and lease lands for payment of their debts, and for raising portions for the younger children of John Vivian, deceased, son of the said John Vivian, and for settling a jointure upon the wife of the said Thomas Vivian, or any after wife which he shall marry." The Proposals constitute the Bill. *Endorsed* Vivian's consent 8 Jan. 1693. To prove that the within proposals were signed and sealed by the several subscribers, Wm. Cundy. [Read in Committee this day. (Com. Book.) The Bill was brought from the Commons on 15 Jan; Royal Assent 25 Jan. (L.J., XV. 342, 351); 5 W. & M. c. 5 in Long Calendar.]

781. Jan. 15. Brooke *v.* Brooke.—Petition and Appeal of Dame Martha Brooke, wife of Sir Robert Brooke, Bart., late relict and administratrix of Christopher Tomlinson, late of London, Merchant, deceased, and of Grace, Anne and Pleydell Tomlinson, spinsters, three of the children of the said Christopher, by the said Martha, Infants, by their *prochein amy*, and of Sir William Thompson, Knt., and John Pleydell, Gent., their Trustees. Sir Robert Brooke on his marriage with the Petitioner, Lady Brooke, settled on Sir Wm. Thompson and Mr. Pleydell, certain lands free of incumbrances and worth 450*l.* a year, to the use of himself for life, remainder to Thompson and Pleydell for 99 years, if he should so long live, to preserve contingent remainders, remainder to Lady Brooke for life for jointure, with remainders to their sons in tail, remainder to his right heirs; and Lady

1693–4.
—
No. 781.

Brooke agreed that Sir Robert should have 5,000*l.* out of the intestate's estate as portion; and in regard that by the said marriage Sir Robert, in right of his wife, became entitled to the guardianship of the infant Petitioners and of Martha Tomlinson, their sister, now wife of Charles Cox, and became possessed of all their father's estate, he agreed to accept the 5,000*l.* out of the personal estate in full of his portion and of his wife's claim to the said estate, the remainder of which was to go to Tomlinson's children. A term, then about ten years in being, of the Ballast Office, part of the intestate's estate, being to be renewed for 21 years from its determination, it was agreed that Sir Robert should endeavour to procure the new lease from the Trinity Company, and that it should be settled in trust for him and Lady Brooke during their lives, and afterwards for their children, but in case Sir Robert should be unable to sell the new term, one moiety of its full value should be settled in trust for Lady Brooke at her sole disposal, who was also to have 1,000*l.* in case she survived her husband. Long before the above articles, however, the intestate Christopher Tomlinson, being a freeman of London, agreed with Oliver Pleydell, Esq., her father, on his marriage with his daughter, to leave his wife 4,000*l.* in full of her share of his estate, and Christopher afterwards gave her a further 1,000*l.* and died intestate, leaving a personal estate worth 35,000*l.*, and his wife, afterwards Lady Brooke, accepted the 5,000*l.* in full of all demands on the estate. Having obtained letters of administration, Lady Brooke, together with Sir Robert Brooke, wasted above 20,000*l.* of Tomlinson's estate, and then Sir Robert turned her and the infant Petitioners out of doors and refused to make any provision for them, but in 1690 brought a bill in Chancery against Petitioners and others for execution of the marriage agreement and to apply Tomlinson's estate to paying the 5,000*l.* marriage portion claimed by him. The infant Petitioners and Thompson and Pleydell, their trustees, brought a Cross-bill against Sir Robert and Lady Brooke for an account of Tomlinson's estate and to stay all further payments to Sir Robert and Lady Brooke, and to have the right application of Tomlinson's estate for the overplus, and 6,654*l.* part thereof was by order paid into Court. The Causes were heard in March last by the Lords Commissioners, who dismissed the Cross-bill and decreed that Sir Robert's marriage agreement should be mutually executed and an account taken of Tomlinson's estate, the residue thereof, after paying Sir Robert, to be paid to the children, and as to all other matters the former Order, *ex parte*, to stand. The Lord Keeper, on a rehearing in June last, decreed that Sir Robert should be paid the residue of the 5,000*l.* out of the money in Court, upon security to be approved by the Master. Prays that the Decrees may be reversed, and the Infant Petitioners admitted to prosecute Sir Robert for an account and satisfaction of their father's estate. *Signed* by Appellants; *Countersigned* by Thomas Price and Thomas Webb. L.J., XV. 342. [The Cause was heard on 10 Feb. *Mr. Darnell* (for Appellant) opens the cause. *Mr. Cresset* (for Appellant): There was a Decree before the Commissioners. Upon the rehearing the Decree was that there should be an account of Tomlinson's estate. *The Common Serjeant* (for the Orphans) is heard. *Sir Thomas Powys* (for Respondent): She so used him as a husband that he was to pay all the debts she contracted. *Sir Bartholomew Shore* (for Respondent) is heard. *Counsel* for Appellant heard in reply. Counsel withdrew. *L. Keeper* reported. Appeal dismissed with 30*l.* costs. Counsel who signed the Appeal were then ordered to attend on the 12th. MS. Min, *See* Notes to Annex (*c*) below.]

1693–4. — No. 782.

Annexed :—

(*a*) 24 Jan. 1693–4. Petition of Appellants. Lady Brooke has been served with two subpœnas in Chancery at the suit of Respondent for matters which she believes relate to her Appeal. Prays that Chas. Fleetwood, of Northampton, Esq., may be accepted as her security, and that all proceedings may be stayed pending the hearing. *Signed* by the Appellants. *Endorsed* as read this day, and allowed. L.J., XV. 349.

(*b*) 29 Jan. Answer of Sir Robert Brooke, Bart.—The Appeal is vexatious, and is not signed by any of Appellants' Counsel in Chancery, nor by Sir Wm. Thompson and Pleydell. Lady Brooke being a femme covert and the other Appellants, her children, infants, Respondent would have no remedy for costs if the Appeal is dismissed, as Thompson and Pleydell, he believes, will disown the Appeal. The alleged incumbrances on the estate are fictitious. Respondent has been in peaceful possession about 50 years and has received only 1,400*l.* portion. The value of the estate was considerably above the 450*l.* a year agreed for. As to making provision for the children, the Court was satisfied that Lady Brooke had their whole estate in her hands, and that Respondent has not possessed any of it but the portion money, and they, ever since her separation from Respondent, having been maintained at great expense, the Court refused to make him liable for their maintenance. As to the pretence of renewing the lease of the Ballast Office, it is sufficiently provided for by the first Decree, which directs a mutual performance of the marriage articles. Respondent has done his best to compose matters amicably, so as to have his 5,000*l.* and settle a jointure and have a just account taken of the children's estate, but has been thwarted by his wife, who designs to defraud him of his portion and load him with her concealment of the children's estate. Respondent's wife has caused him to be arrested pending the suit, in various actions on account of the children, for alleged debts to tradesmen since their separation. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent; *Countersigned* by Wm. Dobyns. *Endorsed* as brought in this day.

(*c*) 12 Feb. Petition of Thomas Price, Esq., Counsellor-at-law, in custody of Sir Thomas Duppa, Knt., Gentleman Usher of the Black Rod. Petitioner is under the high displeasure of the House for signing the Petition and Appeal. Begs their Lordships' pardon and prays to be discharged. [Read this day, and Counsel discharged, with a severe reprimand, after paying his fees. (L.J., XV. 366; MS. Min.). The following cancelled entry also appears in the MS. Min.: "Then Thomas Webb, Esq. " was sent for to the Bar for signing the Petition of Dame " Martha Brooke."]

782. Jan. 19. Frere's Estate Act.—Amended Draft of an Act for sale of part of the estate of Henry Frere, an Infant, to raise moneys for inning and recovering other parts thereof, now under water, and for payment of debts charged thereon. The Lords' Amendments (Com. Book, 1 Feb.) are to insert the date for the trust to commence and the names of the trustees, and certain verbal amendments. [Read 1ª this day; Royal Assent 23 March. (L.J., XV. 346, 402); 5–6 W. & M. c. 20 in Long Calendar.]

Annexed :—

(*a*) 1 Feb. 1693–4. List of some of Lords' Amendments made this day in Committee (Com. Book).

783. Jan. 23. Barrington's Estate Act.—Draft of an Act to enable Sir Charles Barrington, Bart., to settle a jointure on Dame Bridgett, his wife, and to make provision for their younger children. No amendments were made in either House. [Read 1ª this day; Royal Assent 23 March (L.J., XV. 348, 402); 5–6 W. & M. c. 18 in Long Calendar. In the Committee on Feb. 3 a letter from Sir Gobert Barrington's two sons, declaring their father's consent to the Bill was read.]

Annexed :—

(*a*) 3 Feb. 1693–4. Certificate, of date, of Henry Monson authorizing his brothers William and George to consent for him to accept of such lands as they shall be satisfied are of sufficient value to answer the provisions and articles in the marriage agreement of Sir Charles Barrington. *Signed* Henry Mason. *Witnessed* by John Farmens, W^m^. Hunts, J. Bromsgrove. [Read this day in Committee. Com. Book.]

(*b*) 3 Feb. Consent of Tho. Barrington, Francis Barrington, Rich. Barrington and John Barrington to the passing of the Bill, *Dated* 31 Jan. 1693–4. *Witnessed* by Edw^d^. Allcraft.

(*c*) 3 Feb. Letter from Francis Barrington to Sir Charles Barrington, at Chelmsford, declaring his father's consent to the passing of the Bill. *Dated*, Tofts, 31 Jan. 1693–4.

784. Jan. 24. Sir S. Swale *v.* Winchcombe.—Petition and Appeal of Sir Solomon Swale.—John Chapman in 1641 devised to Henry, Robert and Solomon (sons of old Sir Solomon Swale and brothers of Anne Winchcombe, the Plaintiffs below) the sum of 800*l.* apiece at the age of 25, with interest at 5 p.c. from the time of his death, and died in 1642 leaving old Sir Solomon his executor, who in 1649, with 2,100*l.*, part of the said legacies, bought certain copyhold lands in Clynt, held of the forest or manor of Knaresborough, in the names of John Porey, Lewis Montgomery, Thos. Storzacker, and Joane Chapman, who by deed with him declared the same to be in trust for the said legatees, and that the purchase money was part of their legacies. In 1669, Robert and Solomon desiring their legacies in money, the lands were conveyed to new trustees, viz^t^. Wm. Wandesford and John Woolfe, who accordingly borrowed 1,600*l.* of Hitch, one of the Defendants below, and surrendered the lands to the use of him and his heirs. Before the surrender was presented, or Hitch admitted tenant, old Sir Solomon, as is pretended, by deed poll of 10 May 1672, directed the new trustees to surrender the said lands to Sir Henry Goodrick and others, to sell them and out of the purchase money to pay off first what was due to Hitch, then 1,000*l.* to Anne Winchcombe, and the rest to his own executors, and under that pretence Anne, as administratrix with the will annexed of her father, brought a Bill in Chancery in 1691 for payment of the 1,000*l.*, though, as Appellant insisted in his Answer, her father had no power to make such deed or to charge the lands in question, the new trustees standing seized not in trust for him, but upon the original trust. On 23 February last, the Lords Commissioners, assisted by one of the Barons of the Exchequer, decreed to her the said 1,000*l.*, after payment of Hitch, and also the residue of the estate, without any satisfaction to Appellant for his father's legacy. Prays that the Decree may be reversed, Respondents ordered to answer, and proceedings stayed. *Signed* by Appellant; *Countersigned* by Jo. Conyers and Tho. Powys.

1693–4. — No. 784. L.J., XV. 350. [The Cause was heard on 23 Feb. *Mr. Conyers* (for Appellant) opens the case. Mr. Winchcombe's will was for an equity of redemption, and it was on (*sic*) added. The question is touching the equity of redemption, which we say we ought to have. The costs decreed against us is another part of the Appeal. *Sir Thomas Powys* (for Appellant): We had a just demand of our money, and the land stands liable to pay us as well as Mr. Winchcombe. The trustees make it a security to Hitch for 1,600*l.*, Henry is dead we (*sic*). A deed was read and admitted, but the declaration in it was the thing taken notice of. They agree the surrender to be as stated. [Deposition of] John Houseman read. *Sir William Williams* (for Respondent): By the surrender it is settled as he opened it. The 1,000*l.* is well vested in my client by the deed. The residue belongs to us as Executors. Sir Solomon dies in 1678, and this cause was heard before the Commissioners. The question is whether this gentlemen should have the equity of redemption and Mr. Hitch is to convey to us. The Court for this vexation gave costs, and this was acquiesced in, until this person exhibits a Bill of Revivor, which is dismissed. *Sir Bartholomew Shore* (for Respondent): We prove by five witnesses he knew and saw this deed. The three persons being satisfied, there is no cause for them to complain. They read (*sic*) last April; a surrender read; they read the uses. Sir Solomon Swale's surrender read, 1669. Depositions of Walter Baines, Ewell Rumball and others read. The Will read of Sir Solomon Swale, of Swale Hall in Swale Dale, near the river Swale. *Mr. Conyers* and *Sir Thomas Powys* heard in reply. Counsel withdrew, and *L. Keeper* reported. Appeal dismissed and Decree affirmed. (MS. Min.; L. J., XV. 377).]

Annexed:—

(*a*). 7 Feb. 1693–4. Answer of Anne Winchcombe, widow. Respondent claims the lands and the benefit of redemption by virtue of the deed, and of her administration. Appellant's father was satisfied his legacy many years ago, and if the lands in question were ever charged, the conveyance to new trustees, in which Henry joined with his other brothers and the old trustees, discharged the former trust. The legacy demanded is more than 50 years old, and was never claimed by Appellant's father, who knew that it was invested in other lands, nor by Appellant himself, until after Henry's death. The Deed never was nor could be, revoked, and Respondent's legacy has never been satisfied. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent; *Countersigned* by Wm. Whitelocke and Thos. Goodinge. *Endorsed* as brought in this day.

(*b*). 12 Feb. Petition of Appellant for a day for hearing. *Signed* by Appellant. *Endorsed* as read this day. L. J., XV. 366.

785. Jan. 24. Writ of Summons (E. Macclesfield).—Writ of Summons, dated 23 Jan., to Charles, Earl of Macclesfield. [Sat first in Parliament this day. L. J. XV. 350.]

786. Jan. 25. Place Bill.—Commons' Engrossment (as finally amended) of an Act touching free and impartial proceedings in Parliament. The Engrossment, as brought from the Commons, was identical with the Bill of 23 Dec. 1692, except in substituting the date of 1 Jan. 1693 for that of 1 Feb. 1692, and reading ("had been naturally dead") instead of ("were naturally dead"). As offered for the Royal Assent this day, it embodies those of the Lords' Amend-

ments (*See* Annex (*a*) below), to which the Commons agreed. *Superscribed*: Le Roy et la Reyne se advisarunt. *Parchment Collection.* [Brought from the Commons 4 Dec., and read 1ª the next day (L. J., XV. 313, 314). Royal Assent refused this day. (*Ib.* 351). *See* also Notes to Annex (*a*) below]. 1693-4. — No. 786.

Annexed :—

(*a*). 14 Dec. 1693. Lords' Amendments to the Bill. They consist of omitting the words in square brackets and adding those in italics, in the following portions of the Bill :—

Clause i. . . . "disabled in law to all intents and purposes whatsoever to sit in the said House of Commons and give any voice therein during that Parliament, *unless he or they shall be afterwards again elected to serve in the said Parliament.*"

Clause ii. . . . . "And a new Writ or Writs shall issue out of the High Court of Chancery, by warrant or warrants from the Speaker of the House of Commons for the time being, and by Order of the said House, for [the] *a new* election of a [new] member or members to serve in the House of Commons [in the] *for such* place or places [of such member or members so disabled, to all intents and purposes, as if such member or members had been naturally dead. Provided always and be it enacted, that nothing in this Act shall extend or be construed to extend, to the Speaker of the House of Commons for the time being] *for which such member or members was or were elected.* This last amendment is noted in the margin as disagreed to.

[These Amendments were made in C. W. H. this day, after a debate on Clause i. (MS. Min.) and agreed to on report *eod. die.* (MS. Min.; L. J., XV. 321). On 5 Jan., after a Conference, the *L. Privy Seal* reported that the Commons had agreed to all the Amendments, except the omission of Clause iii. *Question* proposed: Whether another day shall be appointed to consider of the agreeing with the Commons? *Previous Question* put: Whether this Question shall be now put? Resolved in the *Negative.* Contents 26 : Not-Contents 32. Tellers : D. Norfolk and D. Somerset. *Question* put: Whether this House shall agree with the House of Commons? Resolved in the *Affirmative.* Contents 36; Not-Contents 25. Tellers : E. Bridgewater and E. Feversham. Protest. H. C. acquainted. (MS. Min.; L. J., XV. 335.)

(*b*). 5 Jan. Commons' Reasons for disagreeing with Lords' Amendment omitting Clause iii. [Offered at the Conference this day. C. J., XI. 48 *In extenso.*]

787. Jan. 25. Brandling *v.* Gregory and another.—Petition and Appeal of Ralph Brandling, Esq. Appellant's grandfather, Sir Francis, being seized in fee of the manors of North and South Gosforth, co. Northumberland, worth 500*l.* a year, mortgaged them in 1630 to Nicholas Barker, as security for a debt of 1,250*l.*, repayable in 1637. The payments, amounting to 1,950*l.*, being duly made, Barker executed a release, and the inheritance reverted to Sir Francis. The latter having afterwards borrowed 2,000*l.* of Barker, Sir Francis and Barker demised the premises in 1637 for 99 years at a pepper-corn rent to Robert Gravenor and Andrew Walker, who thereupon redeemed them to Sir Francis for 98¾ years, Sir Francis paying 250*l.* a year for the first 21 years,

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and a pepper-corn rent for the remainder, this being declared by the deed to be a trust for Barker. Sir Francis paid the rent of 250*l.* during his life, and on his death in 1640, the premises came to his son Charles, who being a Colonel in Charles I.'s service, Barker in 1643 entered on them for non-payment. Walker dying, Gravenor the other trustee demised the premises to Barker for 88 years. In 1651, Barker died, leaving all his interest to Anne, his wife and executrix, who afterwards married one Maplesden, and in 1657, Maplesden and his wife and John Bayly, the executor of Gravenor, assigned for 1,600*l.* the remainder of the term to John Steventon, who, in 1660, prevailed with Maplesden and his wife to levy a fine *sur cognizance de droit* to himself and his heirs. In 1665 Charles Brandling, after having suffered, like his father, for his loyalty to Charles I., died a prisoner in the King's Bench, leaving Robert, his son, then an infant, who on coming of age in 1676, brought a Bill in Chancery against Steventon for an account and redemption. Steventon's objections being overruled, the Cause came on for hearing on 4 Feb. 34 Car. II., when Steventon, having discovered a Decree obtained by one Corbett, and a Deed of Trust to one Gray for payment of debts, and a conveyance of the premises by Robert Brandling to Sir Thos. Haggerston, none of whom, however, were parties to the cause, the Court dismissed the Bill. On Robert Brandling's death in 1682, the premises came to Appellant, as his brother and heir, who, after obtaining a re-conveyance from Corbett, Gray and Haggerston, and satisfying the other deed of trust and decree by paying the creditors, whereby the trust was fully performed, brought a Bill in Chancery against Charles Gregory and his wife, Sarah, the daughter, heir and executrix of Steventon, for an account and redemption; but the Lord Keeper on the 13th inst. allowed Defendants' plea, which was in substance the same as had been put in by Steventon but overruled, and dismissed the Bill. Prays that the dismission of his brother's Bill and the enrolment thereof, as also the dismission of his own Bill being grounded on that enrolment, may be set aside. *Signed* by Appellant; *Countersigned* by Tho. Powys and Tho. Vernon. L. J., XV. 352. [The Cause was heard on 19 Feb. *Sir Thomas Powys* (for Appellant) opened the case. *Mr. Vernon* (for Appellant): Our Bill ought not to have been dismissed, but we [to] have had liberty to redeem the mortgage. By the Registrar's minutes, we make it appear this dismission was only upon, or for want of proper parties. They insist there is a great length of time, and the estate had gone through many hands and a fine and non-claim. *Sir Thomas Powys* heard to state several things. *Sir William Rawlinson* (for Respondents): The Registrar's minutes might in this case control the Decrees, after an acquiescing under a Decree for many years. These manors are let for 100*l.* a year. *Mr. Dobyns* (for Respondents) is heard. *Sir Thomas Powys* heard in reply. Counsel withdrew. Appeal dismissed and Decrees affirmed. (MS. Min.; L. J., XV. 374).]

Annexed:—

(*a*) 3 Feb. 1693–4. Answer of Charles Gregory and his wife. The manors of Gosforth were charged with a rent-charge of 100*l.* a year to a Mr. Jefferyes and several other incumbrances far exceeding their full value. Sir John Steventon was a bonâ fide purchaser of the premises. The Bill brought by Appellant's brother was dismissed, after a full hearing, with 120*l.* costs, which Appellant was rightly ordered to deposit in Court before his own Bill was heard. The decrees of dismission in both causes were just and equitable. Pray that the Appeal

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may be dismissed with costs. *Signed* by Charles Gregory "for myself and wife"; *Countersigned* by Jo. Tremayne. *Endorsed* as brought in this day.

(*b*) 5 Feb. Petition of Respondents for a day for hearing. *Signed* Cha. Gregory. *Endorsed* as read this day. L. J., XV. 359.

788. Jan. 26. Bradshaw and others *v.* Ironside and others.—Petition and Appeal of Sir Cornwall Bradshaw, Knt., Anthony Rowe, Robt. Nott and Wm. Bridges, Esqrs. and John Genew, Gent. In 4 W. & M. the Respondents Edward Ironside, Wm. Lovell, Edwd. Scarborough, Ambrose Till, John Lawrence and Edwd. Cornelius brought a Bill in Exchequer against Appellants for delivery of several bonds entered into by them to Charles II., upon their being employed as sub-collectors of hearth-money, of which the Appellants, by Letters Patent of 19 Dec. 1678, were made managers for five years ending Lady-day 1684 at a certain rent with an allowance. Respondents claimed to have performed the condition of these bonds by duly accounting for the money and delivering their books, but Appellants, in their Answer, swore the contrary and that 700*l.* remained due from them. Although it appeared at the hearing from Mr. Hardwick's depositions, that his accounts were only preparatory and not conclusive, the Court on 26 Oct. 1693 decreed delivery of the bonds without payment of the 700*l.* Appeal from this Decree. *Signed* by Appellants; *Countersigned* by Thomas Powys and Francis Browne, who certify that there is good cause of Appeal. L. J., XV. 353. [The Cause was heard on 8 March. *Sir Thomas Powys* (for Appellants) opened the case. *Mr. Browne* (for Appellants): Our Appeal is for surcharges, and we hope we shall not deliver up our bonds. *Sir Bartholomew Shore* (for Respondents): The refusal to deliver our bonds is vexatious, and so is their Appeal. If they raised little, they are to have nothing. *Mr. Dodd* (for Respondents): The Respondents have accounted as all others ever did account. Depositions read of John Richardson, Geo. Blackborne, Samuel Johnson and Samuel Hardwick. *Sir Thomas Powys* heard in reply. Counsel withdrew and the Speaker reported. Decree affirmed. (MS. Min.; L. J., XV. 389).]

Annexed:—

(*a*) 3 Feb. 1693–4. Answer of Edw. Ironsyde, Will. Lovell, Edwd. Scarborough, Amb. Till, John Laurence and Edward Cornelius. Charles II. by Letters Patent appointed the Appellants Bradshaw, Rowe and Nott, together with Sir Nathaniel Johnson and Thos. Ducke, to be Collectors and Managers of the revenue of hearth-money, under a yearly sum of 162,000*l.* payable into the Exchequer, and after an allowance of 26,000*l.* for their care, charges and expenses, they were to account with the King for the overplus, deducting 2/ in the £ for themselves; which Letters Patent were made either in trust for the Appellant Bridges and also for Sir Patrick Trant, Bart., and Lemmell Kingdon, Esq., since deceased, or at least they had considerable shares and profits, as they appeared most active and vigorous in the management of the revenue. Respondents having been several years sub-collectors under Mr. Anselme, Mr. Pery and Mr. Buckley, the late Farmers of the revenue, were, with several others, employed by Trant, Kingdon and Bridges and other the Patentees, and entered into bonds in the sum of 500*l.* each for duly collecting and paying over the money to the Receivers General, who were appointed by, and answerable to, the Patentees, Respondents having the same allowance as the

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Collectors under the late Farmers, vizt., 1/ in the £ on their receipts, a moiety of the profits of a discovery of any fire-hearth or stove, not previously charged for or illegally excused from payment, and a moiety of any sums discovered to have been collected by any other collector and not brought to account. Trant, Kingdon and Bridges, being well satisfied with the improvement made in the revenue, by discoveries, &c., within two years after the commencement of the management, procured from Charles II. a grant of the surplus arising over and above the said 162,000*l.* and 26,000*l.* in the name of John Jenew in trust for themselves, which proved of great value, and gave Trant and Bridges the chief inspection and management of the revenue for the residue of the term, during which time Respondents proceeded with their collections, and their accounts were made up half-yearly and allowed by the respective Receivers-General who transmitted them to Trant and Bridges, the latter of whom was appointed Comptroller. At the end of the term, Charles II. took the management of the revenue into his own hands, and Trant and Bridges procured themselves to be Commissioners with several others, appointed by the King, and Respondents were also appointed Sub-Collectors with the same allowances as before, until the revenue was taken away by Act of Parliament at Lady Day, 1689. Respondents being to collect what was due at Michaelmas, 1684, the late Managers agreed to allow them a moiety of all arrears by them collected during the time of their management, and the same ought to be allowed in their accounts. Respondents had their bonds to the Commissioners and the former Farmers delivered up to them, and Appellants have never proved any fraud or fault in their accounts, with which, on the contrary, they were well satisfied. Pray that the Decree may be confirmed with costs. *Signed* by Respondents; *Countersigned* by Sam. Dodd. *Endorsed* as brought in this day.

(*b*) 28 Feb. Petition of Respondents for an early day for hearing. *Signed* by the Respondents. *Endorsed* as read this day. L. J., XV. 381.

789. Jan. 26. Mines (Royal) Act.—Petition of the Corporations and Societies of the City of London of and for the Mines Royal, and also of and for the Mineral and Battery works. The Bill for preventing disputes and controversies concerning Royal Mines, which gives the King the pre-emption, will be very prejudicial to Petitioners' just rights and privileges. Pray to be heard by Counsel against it. *Signed* by Edw. Smyth, Tho. Hensheaw, Justinian Champante, Robt. Norton, James Comber and Daniel Wallise. *Endorsed* as read this day. L. J., XV. 352. [The Bill was brought from the Commons and read 1ª on 25 Jan. (*Ib.* 351). On 29 Jan. *Mr. Cooper* and *Sir W. Williams* were heard for Petitioners. Counsel withdrew, and the *Lord Keeper* reported what was said against the Bill. *The Attorney General* was heard for his Majesty. Bill read 2ª (MS. Min.; L. J., XV. 355.)—On 31 Jan. the Bill passed through C. W. H. without amendments; and was reported and agreed to. (MS. Min.; L. J., XV. 356.) Royal Assent, 8 Feb., 5 W. & M., c. 6, Fol. Ed.]

790. Jan. 27. Tonstall *v.* Oxenbregg.—Petition and Appeal of Barnabas Tonstall, Esq. Sir Thos. Walsingham, on the marriage of his daughter Katherine with Henry, eldest son of Sir John Tonstall,

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for part of her portion entered into a Bond to Sir John and Henry of 2,000*l.* for payment of 1,000*l.* within six months after his death, or the marriage of his eldest son, who shortly after married. In 1647 the bond, being unpaid, was assigned to Diana, Sir John's daughter, and Sir John, upon sale of his estate called Edgcombe, in Surrey, appointed Sir Purbeck Temple, the purchaser, to pay Diana 800*l.* out of the purchase-money for her portion in lieu of the bond, which was thereupon delivered to Sir John and Henry, and the 800*l.*, with interest, was shortly after paid to Robert Oxenbregg, Esq., who married Diana. After the death of Sir John and his Lady and all their children, Oxenbregg, pretending there was 200*l.* of his wife's portion unpaid, demanded the same from Sir Purbeck out of the purchase-money in his hands; set upon Henry Piggot to be administrator to Sir John, and put the bond in suit, and extended the estate. After receiving 1,800*l.*, he caused the extent to be discharged, Sir John having purchased of the Dean and Chapter of Canterbury a lease of the parsonage of Bersted, in Sussex, for the lives of his three sons, Henry, Frederick, and Richard, and it being assigned to trustees to pay Dame Penelope, who survived Sir John, 130*l.* a year, Oxenbregg, having got the old lease in his custody, took out administration to Lady Tonstall during the minority of Petitioner, and the other children of Frederick, and at the Restoration renewed the old lease, and possessed himself of Dame Penelope's estate, while Oxenbregg and Piggot took possession of that of Sir John. Petitioner, Frederick's eldest son, brought a Bill in Chancery, in 1676, for an account of Sir John's and Dame Penelope's estate, which Oxenbregg had converted to his own use, and to have the benefit of the lease and the money remaining due on the bond; but his Bill was dismissed on 15 May 1685. Appeals from this dismission, and prays that Respondents may be limited to a short time to answer. *Signed* by Appellant; *Countersigned* by J. Palgrave and Sa. Sh. Broughton, who certify that there is just cause of Appeal. *Endorsed* as read this day. L. J., XV. 353. [The Appeal was dismissed on 22 March, on Appellant's Petition to withdraw it.* (L.J., XV. 400.) *See* Notes to Annex (*d*) below.]

Annexed:—

(*a*) 6 March 1693–4. Answer of Robert Oxenbregg. The suit was vexatious, and the decree of dismission just and equitable. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent; *Countersigned* by John Tilly. *Endorsed* as brought in this day.

(*b*) 10 March. Petition of Appellant. Respondent, after delaying to answer, moved for a short day for hearing, knowing that Petitioner's evidence was at a distance. Prays that the hearing may be postponed till the 22nd inst. L. J., XV. 390.

(*b*)[1] 10 March. Affidavit of Appellant. Deponent was informed that he could not have an Order for producing his evidence and writings till Respondent had answered; and Respondent has now taken him by surprise. The writings are material and at a distance from London. *Sworn* this day before S. Keck. *Endorsed* as read this day. [Appended to preceding.]

(*b*)[2] Copy Order of Lord Keeper on 15 May 1685, reciting certain Deeds, and dismissing Appellant's Bill with costs. [Appended to (*b*).]

* A cancelled entry appears in M.S. Min. on 13 March that the House was moved to appoint an earlier day for hearing the cause. On 15 March the two sureties ordered to be found by the Appellant as security for his costs on 6 March were not deemed satisfactory to the House. (M.S. Min.)

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(*c*) 21 March. Letter from Appellant to Sir Edward Bettison, at Stadbury, near Bromley, Kent, as follows:—"Sir,—Sir Richard Bettison, who I suppose was your grandfather, was a Defendant in a Cause in Chancery, and afterwards your aunt Oldfield, as his executor, touching the discovery of some money paid to one Mr. Willoughby, mentioned in the papers the bearer will deliver you; and you will please to let me know to whom you will send them, Mr. Coleman having had them before, but he is now out of town. It may prevent you the expense of retaining Counsel, and otherwise to attend the Appeal to excuse the contempt if you do not produce them, which will not be done except you show some very good reason why you cannot produce. I am, though unknown, Sir, your humble servant, B. Tonstall." *Dated* Essex Court, Temple, 17 March 1693–4. *Endorsed*: "This Letter was brought to Sir Edward Bettison with 2 Papers on 20 March 1693. William Harris." [The House being moved this day, that Tonstall had added certain words to the Order. [Annex (*c*)[1] below.] Witnesses were called in to prove the receipt of the Letter and Order sent by Tonstall. *William Harris*, Sir Edward Bettison's servant: "I received the Letter and gave it to my master." *Sir Edward Bettison* says his servant delivered him the letter. *Mr. Tonstall* was called in and shewn the Letter to Bettison, and he owned it and the note to the Order; it was sent by his order to Sir E. Bettison. "I added the words to explain the meaning to him." The Letter was read to him concerning the threatening him to be out of contempt, if the writings be not produced. He was heard to explain himself. *Ordered*, that he be taken into custody presently. *Mr. Tonstall* was called in and asked, why he does not give better security? He says he has his security here now. He offers two persons to be security, that he knows not. He withdraws. *Ordered*, that he give security such as he has, and the Cause to stand for to-morrow. (MS. Min.; L. J., XV. 399).]

(*c*)[1] Paper purporting to be Copy Order of the House of 10th March, 1693–4. Adds to the Order as in L. J., XV. 390, the following words as a foot-note, viz[t].: "The heir of Sir Richard Bettison is then to produce all the Deeds and writings relating to the estate called Stadbury, purchased by Sir Richard Bettison of Sir Tho. Walsingham." *Endorsed:* William Harris. [Appended to preceding.]

(*c*)[2]. Copy Order of the Lord Keeper of 15 May 1685, reciting certain Deeds, and dismissing Appellant's Bill, with costs. *Endorsed:* William Harris. [Appended to (*c*) above.]

(*c*)[3] Letter from Appellant to Madam Oldfield at Wimbledon, near Putney, as follows: "Madam,—I lately sent their Lordships a letter touching some writings as were produced by Mr. Coleman on the hearing of a Cause in Chancery in 1685, which related to Stadbury, and if you have them in your custody pray let them be sent to some friend, and pray let me know to whom, and you will make things easy, or you will be put to the trouble and expense of retaining Counsel to attend the hearing on the Appeal, you being a Defendant. But I must have convenient notice thereof, or else I cannot prevent the same. I am, &c., B. Tonstall." *Dated* Essex Court, Temple, 17 March, 1693–4. "If you have them not, pray immediately send to your nephew, because the

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said writings will be required of you, being a Defendant to the suit, or else it will be a contempt to the Lords, which they usually punish severely."

(*c*)[4] Copy Order of the House of 10th March, appointing the 22nd inst. for hearing. L. J., XV. 390. *In extenso.* *Underwritten* is the following: "The Defendants, Mr. Oldfield and his wife, are then to produce the orders or directions of the Earl of Suffolk for payment of 1,800*l.* upon the extent obtained on a bond of 2,000*l.* from Sir Tho. Walsingham to Sir John and Henry Tonstall, and the Deed made from Robert Oxenbregg, Henry Piggot to William Willoughby about March 1658, and another made from William Willoughby to Thos. Monyon and Edward Bettison of the said extended lands, being the Manor of Stadbury, or part thereof; a receipt for 118*l.* from one Tho. Eady, Under-Sheriff of Kent, for the charges of the said extent, and the Earl of Suffolk and Mr. Howard's Release about Dec. 1667 for about 5,700*l.*, whereof the said 118*l.* is mentioned to be part." [Appended to preceding.]

(*c*)[5] Letter from Appellant to Sir Purbeck Temple, at his house at Edgcombe, near Croydon, as follows: "Sir,—I have been in good hope any time these three weeks to have seen you in town. I am informed you have notice from my uncle Oxenbregg to produce the writings you produced at the hearing in the Cause wherein I was Plaintiff against my said uncle, who, I know, did mightily court you then; but I must always acknowledge the readiness you showed me also to see any writings, and will endeavour to return your favour therein, being ever, Sir, your most obliged humble servant, B. Tonstall. Now inasmuch as the Lords will be greatly offended, and will make it a contempt in case all writings, &c. be not produced that were at the hearing in Chancery, and Sir Richard Bettison, Madam Oldfield and the executors of Piggot have already sent their writings to London, you may ease yourself and send them to Mr. Naylor or Mr. Hoy. Hearing you are indisposed, for which I am heartily sorry, I have spoken to Mr. Naylor and Mr. Hoy to let me have notice as soon as they have the writings from you. Sir, it will be a contempt if they are not produced." *Dated* 17 March, 1693–4.

(*c*)[6] Copy Order of 10 March appointing the 22nd inst. for hearing L. J., XV. 390. *In extenso.* *Underwritten* is the following: "The Defendant, Sir Purbeck Temple, is then to produce the Notes and Acquittances from Henry Tonstall and Diana Tonstall, son and daughter of Sir Jo. Tonstall, upon paying or securing of 800*l.* to the said Diana, and the two Deeds of Settlement, viz[t]., that made on the intended marriage of the said Henry with one Mrs. Nicholls, and also the settlement made on the marriage of Sir Thomas Walsingham's daughter, and the said Sir Purbeck's Agreement for the purchase of Edgcombe, and also the purchase Deed and three or four letters from Mr. Oxenbregg touching the payment of the 800*l.*, and in particular one to Sir Purbeck Temple and another to one Mr. Lamont [?] about August 1650; and the two Acquittances given on payment of 600*l.* and 200*l.*, which made up the 800*l.* aforesaid, and the Bills, Answers, Depositions and Orders relating to the suits were about 1652 or 1653 in Chancery between the said Sir Purbeck Temple and Robert Oxenbregg and Katharine, the

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widow of the said Henry Tonstall, and the Agreement made with the said Katharine and Robert Oxenbregg, touching the same."

(*d*) 22 March. Petition of Appellant. Petitioner is extremely troubled for offending the House, and prays to be discharged from custody, and to have leave to withdraw his Appeal. [Read this day and rejected.] Counsel being then called in upon the Cause, Counsel appeared for Respondent but none for Appellant. *The Appellant* was told that what he desired in his Petition, to be discharged and to withdraw his Appeal, are quite different cases, and he may freely go on with his Appeal, if he thinks fit. He says: "As for my Cause, I have agreed with my uncle, and given him a Release, and am willing to withdraw my Appeal. I do not design to give any persons any further trouble in this Appeal." *Ordered*, that the Appeal be dismissed. (M.S. Min.; L. J., XV. 400).]

(*e*) 23 March. Petition of Appellant. Acknowledges his offence, and prays to be discharged. [Read this day; *Appellant* brought to the Bar and reprimanded on his knees, and discharged on paying his fees. (M.S. Min.; L. J., XV. 401.]

791. Jan. 27.—Edwards' Estate Act.—Amended Draft of an Act to enable Thomas Edwards to sell part of his estate for the payment of debts, and to restrain and disable him to commit waste upon the residue of the said Estate. The only important Amendment of the Lords (Com. Book, 3 Feb.) is to alter the date for vesting the Estate in the trustees for sale from "(*blank*) day of March, 1693" to "*last* day of April, 1694." The Bill was not amended by the Commons. [Read 1ª this day; Royal Assent 23 March. (L. J., XV. 353, 402). 5-6 W. & M. c. 25 in Long Calendar.]

Annexed:—

(*a*) 5 Feb. Lords' Amendments to the Bill. [Made in Committee 3 Feb. (Com. Book), and reported this day. (L.J., XV. 359).]

792. Jan. 31. Prisoners for Debt Relief Act.—Petition of the poor prisoners for debt committed since 28 Nov. 1690. Several thousands of unhappy men, through the calamity of the present War, or other misfortune, have since 28 Nov. 1690 been thrown into the several gaols of the Kingdom, where they now lie languishing under insupportable want and misery, and are equally objects of charity and compassion with those other prisoners within the limitation of the Bill. Pray that the annexed Clause may be added to the Bill. *Signed* Francis Johnson. [Read this day and referred to Committee. (L. J., XV. 356.) The Bill in question, viz†, "for the explaining and for the more effectual execution of a former Act* for the relief of poor Prisoners," was brought from the Commons 20 Jan. (*Ib.* 347). In C. W. H. on 8 Feb., Bishop of Salisbury in the Chair, Counsel for the Prisoners were called in and heard. The Bill was then read through, and after some time spent therein, the Title was read and postponed. House resumed, and progress reported (MS. Min.; L.J., XV. 363).—On 10 March, the House having gone again into Committee, Bp. of Salisbury in the Chair, the Preamble was read and postponed. The following amendments† were then made, viz†:—

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* 2 W. & M. Sess. 2, c. 15.

† Omissions are shown by square brackets, and additions by italics.

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Sect. i. . . . "though the said Sheriffs, Gaolers or Keepers of the respective prisons have refused to swear for them, either out of a *pretended* scruple of conscience that." . . . .

. . . "I. A. B. do swear that I have examined and* [have reason to believe] *the Commitments or Books belonging to the said Prison, and that by them it doth appear* that I. S. was really and truly a prisoner in the custody of the then Gaoler or Keeper of the Prison of D. prison in the County of C. without any fraud or deceit by me or any other to my knowledge or belief at or upon the eight and twentieth day of November in the year of our Lord God one thousand, six hundred and ninety.†

Sect. ii. And be it further enacted by the authority aforesaid, that in case any Sheriff, Gaoler, or Keeper of Prison shall refuse to take the said Oath hereinbefore appointed to be taken, *he being thereto required, unless it shall appear by the Commitments and Books belonging to the said Prison that the person for whom such Oath is required was not really and truly a prisoner in the custody of the said Gaoler and Keeper, according to the tenor of the Oath above-mentioned, and that otherwise the said Gaoler or Keeper, Gaolers or Keepers, for his or their so refusing to take such Oath, shall forfeit and pay to such prisoner, so about to be discharged and released from prison, and thereby detained, the value of such debt or debts, for which he or she shall be imprisoned, to be recovered by action of debt in any their Majesties Court of Record, and* that then and in that case. . . .

Sect. iv. . . . upon pain to be proceeded against as extortioners as aforesaid.‡

On 12 March the above Amendments were reported. A Proviso was offered for saving E. Radnor's right in the Office of the Fleet. On Motion, *Ordered* that the Bill be recommitted to C. W. H. presently. House in Committee accordingly. The following further Amendment was then made, vizt :

Sect. ii. . . . upon pain of forfeiture§ [of their respective offices and interests] *the value of the debt, to be recovered as aforesaid,* and upon further pain . . .

The above Amendments were agreed to by the Commons, with two verbal amendments already noted, and the Bill received the Royal Assent on 23 March. (L.J., XV. 402.) 5–6 Will. & Mary c. 8 Fol. Ed.]

Annexed :—

(*a*) Clause referred to in preceding Petition, vizt : "And whereas the Act made in the second year of their Majesties' reign for the relief of Poor Prisoners for debt had not the effect their Majesties intended, by reason of some strict construction made thereof for the better explanation of the said Act, it is hereby declared by the authority aforesaid, That upon the death or removal of any gaoler or keeper of any prison, the present keeper shall only take the Oath following, vizt, I, A. B., keeper of the Prison of , do swear that I find that C. D. do stand charged in the books of the prison of , for that purpose on the 28th day of November 1690, at the suit of E. F. And it is further declared that the Clause of the Act forbidding any gaoler or keeper to

* The word ("and") was here omitted by the Commons, to make sense C. J., XI. 131.

† A line and a half is here erased, as an amendment. The words erased are undecipherable on the Roll.

‡ Nineteen lines, all undecipherable, are here erased as an amendment.

§ Amended to ("forfeiting") by the Commons. C. J., XI. 131.

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take fees for the discharging any poor prisoner was intended to extend and shall extend to the Sheriff, Undersheriff, Clerk of the Peace, except one shilling for the duplicates or certificates of the prisoner's discharge. And it is further enacted and declared by the authority aforesaid, That the hundred pounds principal money mentioned in the of the said Act, shall be understood to be one hundred pounds principal debt or damages, in execution to one man. And forasmuch as all prisons generally, by the reason of the continuance of the War, are as full now as when the said last Act was made, Be it therefore enacted and declared by the authority aforesaid, That all persons, being prisoners or in prison on the 13th day of February, 1692, shall have the same benefit of the said Act and in and by the ways and manner as those that were in prison on the 28th day of November, 1690." *Endorsed* as read and rejected.

(*b*) 7 Feb. 1693–4. Petition of Michael Symonds, Richard Oakley, Thomas Jordan, Samuel Sheppard, Daniel Wright and John Green, on behalf of themselves and many other creditors of divers persons now prisoners in the King's Bench, Fleet and other prisons. The Bill contains some things greatly to the wrong and prejudice of Petitioners and many other creditors. Pray to be heard by Counsel. *Signed* only by Symonds, Oakley and Green. *Endorsed* as read this day. [Read this day; no further proceedings recorded thereon, L. J., XV. 361.]

793. Jan. 31. Turner's Estate Act.—Amended Draft of an Act to enable the Trustees of Alice Turner, Widow, and her children to make sale of certain houses and ground in or near Lincoln's-inn-Fields, in the county of Middlesex, during the minority of the younger children. *Endorsed* as above with the addition of these words, which are struck out:—"And for provision for them according to their respective interests." The Lords' Amendments, besides two purely verbal ones, (Com. Book, 13 Feb.) are to insert ("800*l.*") as the sum payable to Alice Turner, and to add the words giving 50*l.* apiece to Ambrose, Grace, Richard and Christopher Turner. [Read 1ª this day; Royal Assent 23 March (L.J., XV. 356, 402); 5–6 W. & M. c. 24 in Long Calendar].

Annexed:—

(*a*) 13 Feb. Consent of Edward Hales, one of the Trustees, to the sale of houses in St. Clements Danes. [Produced in Committee this day. Com. Book.]

794. Feb. 3. Maynard's Estate Act.—Amended Draft of an Act for settling the estate of Sir John Maynard, Knight, deceased, late one of the Lords Commissioners for the custody of the Great Seal of England. The principal amendments of the Lords (Annexes (*c–k*)) were the addition of the 6 Clauses annexed below; the remaining ones being consequential and corrections of the copy of the Will recited in the Preamble. [Read 1ª this day and ordered to be read again on the 7th, but no entry appears of this having been done. (L.J., XV. 358 MS. Min.). On 16 Feb. Counsel were heard on the Petition of Sir W. Rawlinson and others against the Bill. (Annex (*a*) below). *Sir Thomas Powys* (for Petitioners): We claim under a will of 29 Sept. 1687, and by this Will we have a good estate settled on us. 9 Sept. 1686, a Will revoked. That the claim by (*sic*) begins the same time, 9 Sept. 1687. *Mr. Dobyns* (for the Bill): This Act is for settling the Estate. If they are against

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it, we think it is high time to have it settled. We desire our differences may be accommodated by the Legislative Power, and it is for the quiet of all persons and the good of the children. *Mr. Webb* signified the consent of E. Suffolk and his Lady to pass the Bill. *Sir Thomas Powys* heard in reply. *Mr. Rowe* (for Mr. Maynard): The Wills were produced at the trial. Counsel withdrew. After debate, further consideration of matter adjourned. (MS. Min.; L.J., XV. 371.) On 3 March, Bill read 2ª and committed. (MS. Min.; L.J., XV. 384).—The Committee, E. Manchester in the Chair, met on March 5, 6, 7, and 8, when the Bill was ordered to be reported with amendments. On the 5th the *Lord George* said he had renounced the Will and had not acted since. On the 6th *Mr. Maynard Colchester* said he never acted as a Trustee, and consented to the Bill as to his own right. *Mrs. Maynard* consented to the Bill, with a Clause and Proviso, which she offered, and which were agreed to. On the 7th *Ordered* that Sir W. Rawlinson be heard to-morrow, if he think fit, otherwise the Committee to proceed without him. On the 8th *Sir William Rawlinson* said: The difference is only touching 100*l.*, which by the Bill is taken from me and given to Mr. Colchester. It is out of 500*l.*, which was agreed among the relations to be allowed me for the charges of the suits. *Mr. Colchester*: The charges I am concerned in do not come to above 25*l.* I value not the money; I will give it to the poor. It is my reputation I stand upon. I consent to take 1,050*l.* out of respect to your Lordships. *Mr. Marriot* (for Earl and Countess of Suffolk) consents to the Bill. *Mr. Ward* (for Mr. Leigh and Mrs. Gresham) says he is empowered by Sir W. Rawlinson to give consent for them. *Sir W. Rawlinson* consents for Mrs. Leigh and himself. (Com. Book of dates.) The Bill was returned from the Commons with a verbal amendment (C.J., XI. 139). Royal Assent, 16 April, (L.J., XV. 417). 5–6 W. & M. c. 33 in Long Calendar.]

Annexed:—

(*a*) 5 Feb. 1693–4. Petition of Sir William Rawlinson, Knt., Serjeant-at-Law, and of Dame Jane, his wife (one of the grand-daughters of Sir John Maynard, Knt., deceased), on the behalf of themselves and several of the children and grand-children of the said Sir John Maynard, and on the behalf of Elizabeth Maynard, widow, Relict of Joseph Maynard, Esq., deceased, and others. The Bill, which has been brought in on behalf of E. Stamford and Mary, Countess of Stamford, his wife, and on behalf of Sir Henry Hobart and Dame Elizabeth, his wife, is to establish a certain writing produced by the Countess of Suffolk, and dated 21 March, 1689, as Sir John Maynard's last Will, and to obtain for them more of his estate than he intended for them. There are two other Wills of Sir John Maynard, produced by the Countess of Suffolk, and deposited in the Court of Chancery, one dated 28 Sept. 1676 and the other dated 9 Sept. 1686 and endorsed as his last Will 29 Sept. 1687. Petitioners are concerned in both of these, as also in the first Will mentioned, but which of them is the true one, is not yet determined, and suits are depending in King's Bench and Chancery thereupon. Mrs. Joanna Leigh, one of Testator's daughters, lives at Wigan, Sir Duncombe Colchester, who married another of his daughters, at Westbury, and Mr. Gresham, (son of Sir Marmaduke Gresham) who married another daughter, in Kent; and none of them have had notice of the Bill, and Petitioners only had notice last

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Friday. Pray for time to oppose the Bill, which concerns an inheritance of above 5,000*l.* a year; and that the Registrar in Chancery may attend with the original Wills. *Signed* by the Petitioner. *Endorsed* as read this day. L.J., XV. 359.

(*b*) 5 March 1693–4. Consent of the Countess of Stamford and the Lady Hobart to the passing of the Bill. Signed on the back of a copy of the Bill, and attested by J. Watts, J. Colman, Hugh Alsop, Jo. Raworth, John Aldridge and Fortunatus Wallis. [Read in Committee this day (Com. Book).]

(*b*[1]) Affidavit of John Watts, of Leicester, Gent., that he was present when the above Consent was signed on 3 Feb. at Broadgate, co. Leicester, and that the copy of the Bill has been in his custody unaltered since then. *Sworn* 21 Feb. 1693–4 before Miles Hooke, Master in Chancery. [Appended to preceding.]

(*c*) 8 March. Lords' Amendments to the Bill. [Made in Committee March 5, 6 and 7 (Com. Book), and reported this day. L.J., XV. 388].

(*d*) 8 March. Clause A. Begins ("*And whereas upon farther search*"). Ends ("*thereto annexed and as aforesaid*"). [Added to Preamble in Committee 5 March (Com. Book) and reported this day. (L.J., XV. 388.)]

(*e*) 8 March. Clause B. Begins ("*And whereas it is also farther agreed*"). Ends ("*for that purpose; And in case that she so do.*") [Added in Committee 7 March (Com. Book) and reported this day. (L.J., XV. 388.)]

(*f*) 8 March. Amended Clause C., concerning annuities payable to Elizabeth Maynard, Martha Gresham, Thos. Bradford, and Oliver Ash. Begins ("*And be it further enacted.*") Ends ("*to any other the persons herein-before mentioned.*) [Added in Committee 7 March (Com. Book) and reported this day. (L.J., XV. 388.)]

(*g*) 8 March. Amended Clause D., mortgaging manor of Beere *alias* Beere-ferris, co. Devon, for payment of 2,050*l.* to Maynard Colchester and John Leigh, and manors of Clifton and Hardmead, co. Bucks, for payment of 2,450*l.* to Sir W. Rawlinson. Begins ("*And whereas it is agreed*"). Ends ("*for the raising of the said moneys respectively*"). [Added in Committee 7 March (Com. Book, and Annex (*c*) above), and reported this day. L.J., XV. 388).]

(*h*) 8 March. Proviso E., saving any rights of Elizabeth Maynard, Widow, to the Estate of Sir John Maynard or his son Joseph. Begins ("*Provided always*"). Ends ("*or otherwise howsoever*"). [Added in Committee 7 March (Com. Book), and reported this day. (L.J., XV. 388.)].

(*i*) 8 March. Amended Proviso F., enabling Maynard Colchester and John Leigh to pay themselves, if necessary, the respective sums of 1,050*l.* and 1,000*l.*, by sale of the term of years in the premises, &c. Begins ("*Provided and it is hereby*") Ends ("*to the contrary notwithstanding*"). [Added in Committee (Annex (*c*) above), and reported this day. (L.J., XV. 388.)]

(*k*) 8 March. Amended Proviso G., enabling Sir W. Rawlinson to pay himself, if necessary, his 2,450*l.* by sale of the term of years in the premises, &c. [Added in Committee (Annex (*c*) above), and reported this day. (L.J., XV. 388).]

795. Feb. 5. E. Sandwich's Privilege (Walbrook).—**Petition** of Benjamin Walbrook. Petitioner has been 10 days in the custody of the

Serjeant-at-Arms, for detaining his Lordship's coach. Has begged his Lordship's pardon and intercession for his offence. Prays to be discharged. *Endorsed* wrongly as read 5 Jan. *See* L.J., XV. 359. [On 27 Jan. the House was *moved* in a breach of privilege in a coachmaker's detaining his coach [from] E. Sandwich. *Christopher Stringer* [deposed as follows] : I went yesterday for my Lord's Coach, and I found a lock on the door, and he said there was rent due to him, and he would detain the Coach. He said he would have a year's rent before the Coach went. His name is Walder (*sic*). *Ordered* that he be attached and the coach delivered. (MS. Min. ; L.J., XV. 353.) Walbrook was discharged this day, on his Petition, on paying his fees. (MS. Min. ; L.J., XV. 359).]

796. Feb. 9. Judges (Assistants to the House).—The Lord Keeper's reprimand to the Judges this day, for being negligent in their attendance. *Endorsed* wrongly 9 Jan. L.J., XV. 364. *In extenso.* [On 8 Feb. the House, taking notice that the Judges do not daily attend as they ought to, *Ordered* that all the Judges attend the House the next day upon the rising of the Courts in Westminster Hall, and attend here till the House rises. (MS. Min. ; L.J., XV. 363.) The MS. Min. contain a previous entry, which is struck through, as follows : "*Moved* that the Judges be reprimanded for non-attendance on the House. The House named the following Lords to draw what shall be said to them, viz^{t}., E. Rochester, E. Mulgrave, M. Halifax, E. Nottingham, L. Godolphin. The *Lord Keeper* repeated what he had drawn to be said to the Judges." * This reprimand was repeated on 4 Dec. 1694 (L.J., XV. 438). A similar one had been given on 14 Nov. 1689. (L.J., XIV. 342.) On 9 Feb. L.C.J. Holt was excused attendance, it being *nisi prius* day. On the same day it was *Ordered* that two Judges, at least, should attend every day during term time. (MS. Min. ; no entry in L.J.)]

797. Feb. 12. Turner's Estate Act. Amended Draft of an Act for payment of the debts of George Turner, Esq., deceased. The Lords' Amendments (Com. Book, 19 Feb.) are to insert in one blank the names of Mrs. Anne Vans and David Allen, as Creditors, and in another the names of Ralph Drake and John Duke, as the persons empowered to invest and pay to the widow the money raised by sale of the estate. The Commons' Amendment (C.J., XI. 116) is merely verbal. [Read 1^{a} this day ; Royal Assent 23 March. (L.J., XV. 366, 402). 5–6 W. & M. c. 17 in Long Calendar. The amount of the fee (£. 27 10*s*. 0*d*.) is noted in the margin of MS. Min.]

798. Feb. 14. Trials for Treason, &c., Regulation Bill.—Commons' Engrossment of an Act for regulating of Trials in cases of Treason and Misprision of Treason. Identical with Sections i. ii. v. vii. viii. xi. and xii. of the Act of 1695–6 (7–8 W. III. c. 3 Fol. Ed.) except in the following passages, where the Act reads the words in italics, and omits those in square brackets, viz^{t}. :

Sect. i. (Clause 1) . . . after the [tenth] *five and twentieth* day of March in the year of our Lord one thousand, six hundred, ninety [five] *six*.† . . . indictment, *but not the names of the witnesses* delivered unto [him or] them *or any of them* five days at the least. . . . and in case [upon the arraignment of] any person [or persons] so accused or indicted, [such person or persons] shall desire counsel. . . . authorised and required, *immediately upon his or*

* The Paper is apparently a holograph by the Lord Keeper, Sir John Somers.
† This variation of the date occurs throughout the Bill.

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their request, to assign to such person and persons such and so many counsel, not exceeding [three] *two*, as the person *or persons* shall desire [two days at the least before such person or persons shall be tried] to whom. . . .

Sect. ii. (Clause 2) . . shall be indicted, tried, [convicted] or attainted of high treason, [other than by process of outlawry], whereby any corruption. . . .

Sect. ii. (Clause 2) . . . testimony of two lawful witnesses, [to the same treason] *either both of them to the same overt act, or one of them to one and another of them to another overt act of the same treason*, unless the party indicted. . . . refuse to plead or *in cases of high treason shall* peremptorily challenge. . . .

Section vii. (Clause 4) . . . accused, indicted [and] *or* tried. . . .

Parchment Collection. [Brought from the Commons this day (L.J., XV. 368). On 22 Feb. Bill read 1ª. *Moved* that it be rejected. After Debate,

Ordered that the Debate be adjourned till the 26th, all the Lords in and about town and the Judges to attend. (MS. Min.; L.J., XV. 376).—On 26 Feb. Debate resumed on motion for rejecting the Bill, and after some time spent therein, second reading, on question, negatived. (MS. Min.; L.J., XV. 378.)]

799. Feb. 15. Paise *v.* Hindmarsh and others.—Petition and Appeal of Thomas Paise, Gent. Sir Henry Brabant being arrested in 1684 by the Respondent, William Proctor, Sheriff of Newcastle-upon-Tyne on a writ out of King's Bench, at the suit of *Hindmarsh* and Bigg and their wives, in an action for a debt of £. 500, Appellant and Henry Mountford (since deceased) became bail in a bond of £. 1,000 for his appearance. Before the return of the writ, Plaintiffs agreed to give Sir Henry further time for payment, whereupon he acknowledged a judgment to them for the debt in the town court of Newcastle, and afterwards paid each of them £. 50 on account. Plaintiffs forbore proceedings till after his death in 1687, when they took an assignment of the bail-bond from Proctor, and prosecuted Appellant and Mountford at law. The latter, thereupon, brought a Bill in Chancery to have the bail-bond delivered up. The Lords Commissioners, on 11 July 1689, ordered a trial at law as to what Respondents were damnified within the condition of the bail-bond, and a verdict being found for them for £. 157, the Court on 31 Jan. 1689–90, after an *ex parte* hearing, when Appellants were taken by surprise, decreed payment of the sum with costs, which have since been paid. The decrees are erroneous; the agreement giving further time being, in equity, an absolute discharge of the bail-bond. Prays that they may be reversed, and Respondents ordered to answer. *Signed* by Appellant; *Countersigned* by Wm. Whitelocke and Fr. Wilkinson. L.J., XV. 369. [The Cause was heard on 17 April. *Sir Thomas Powys* (for Appellant) opens the case. Sir Thomas (*sic*) Brabant gave a bond in 1689. Brabant was arrested for the debt, and two persons were his security, he giving a judgment to secure them. Sir Henry Brabant paid some part of the debt. The Chancery directed a trial at law of the *quantum damnificatus*. We ought to have been relieved wholly against the bond, and we ought to have had the benefit of the bond. *Sir Bartholomew Shore* (for Appellant): We pray to be relieved for two reasons, the Judgment and the Articles, and execution of the Agreement was done in part. We pray a relief in general. [Deposition of] George Thompson read. Three Interrogatories read, and the Answer in Chancery. *Mr.*

Dobyns (for Respondents): We have judgment against them at law on the bond. They come to equity, and would be relieved against the penalty. Thompson swears very improbable things. This bond was forfeited by their neglect, and we hope to keep our money, now we have it. *Mr. Vernon* (for Respondents) is heard. They read the Answers in Chancery. *Sir Thomas Powys* and *Sir Bartholomew Shore* heard in reply. Decree and Orders affirmed. (MS. Min.; L.J., XV. 418)].

Annexed;—

(*a*) 1 March 1693–4. Petition of Respondents for further time to answer, as they live at Newcastle. *Signed* by John Hindmarsh. *Endorsed* as brought in this day. L.J., XV. 382

(*b*) 6 March. Joint and Several Answers of John Hindmarsh, Esq., and Julian his wife, and Isabella Bigg, Widow. Sir Henry failing to appear, the bond became forfeited, and Respondents often pressed him in his life-time to get it assigned. Pray that the Appeal may be dismissed. *Signed* by Respondents; *Countersigned* by T. Vernon. *Endorsed* as brought in this day.

(*c*) 6 March. Answer of William Proctor, Esq. Respondent was amerced, in consequence of Sir Henry's non-appearance, at the prosecution of the other Respondents, and to prevent further amerciaments, assigned the bail-bond to them. What he did was solely in duty of his office. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent; *Countersigned* by T. Vernon. *Endorsed* as brought in this day.

(*d*) 5 April 1694. Petition of Appellant for a day for hearing. *Signed* by the Appellant. *Endorsed* as read this day. L.J., XV. 411.

800. Feb. 15. E. Thanet's Estate Act.—Draft of an Act to enable Thomas, Earl of Thanet and the Honble. Sackville Tufton, his brother, to make a Lease for sixty years of Thanet House in the parish of St. Botolph's, Aldersgate, to commence after the remainder of a term of one and thirty years now in being. [Read this day; Royal Assent 23 March, (L. J., XV. 369, 402.) 5 & 6 W. and M. c. 19 in Long Calendar.]

Annexed:—

(*a*) 19 Feb. 1693–4. Consent of Sackville Tufton Esq. to the passing of the Bill. *Dated* 14 Feb. [Read this day in Committee. Com. Book.]

801. Feb. 15. L. Stawell's Estate Act.*—Amended Draft of an Act for payment of the debts of John Lord Stawell, lately deceased. The Lords' Amendments (*see* Annex (*c*)) were to add Robert Cecil and Sir John Austin to the Trustees, to substitute the words appointing Trustees for 2,000 years for the payment of the debts, viz., "also that they . . . . satisfaction of" (Act, Pr. 6, ll. 5–20) for the words "after payment of the said yearly sum of 200*l.* to the said Anne Stawell, then to pay and satisfy by the said moneys arising by such sale and sales aforesaid, and by the said rents, issues, fines and profits;" the words dealing with the residue, viz., "shall apply . . . satisfaction of" (Act, Pr. 6, ll. 30–41) for the words "do pay and satisfy;" to add the words giving interest &c., to the creditors (Act, Pr. 7, ll. 17–22); to substitute 2,000*l.* for 4,000*l.* for the relict Margaret Lady Stawell; to insert the

* *See* No. 682 in the 14th Report, Appendix, Part VI.

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date of the lapse of her letters of administration; to specify the nature of the personal estate out of which she was to have 1,000*l.* for obtaining the Act; to leave out Roger Jackson from the Saving Clause for Sir Thomas Clarges &c.; and to add the Countess of Mulgrave and Mrs. Austin in the last Clause but one, providing for the costs of this Act and the former Bill. The rest of the amendments are merely drafting and consequential ones. The amendments made by the Commons are set out in C. J., XI. 141–2, and were all agreed to by the Lords except Proviso B, for Francis Lee, which was waived by the Commons (*ib.* 150); but the addition of Richard Cooling to the Trustees is not given effect to in the Act. [Offered to the House this day and read 1ª on 16th (L. J., XV. 369, 371). On 22 Feb. Counsel were heard at the Bar on the Bill.* *Sir Wm Rawlinson* (for Lady Mulgrave and Mr. (? Mrs.) Austin) was heard to the descent and the remainder, and against the Bill in general, and not as it may be amended. *Sir Thomas Powys* (for the daughter and heir of the late L. Stawell): This Act is most necessary, and for the advantage of Mr. Serjt. Rawlinson's client. There is 66,000*l.* due upon mortgage, 6,000*l.* by Recognizance, by Bonds 1,000*l.*, 2,000*l.* more upon simple contract 1,588*l.* for workmen, and servants' wages 5,000*l.* more. The whole 82,488*l.* debt. *Mr. Dobyns* (for Lady Stawell): This lady brought 1,000*l.* portion. *Mr. Hooper* (for the Creditors of the late L. Stawell): We desire we may not be postponed. I pray the creditors by simple contract may be first paid. A Deed *read* that recites the Will, 1 Nov., 1° Will. *After Serjt. Rawlinson* had replied, the Bill was read 2ª (L. J., XV. 376; *MS.* Min., 22 Feb.)—On 24 Feb., in Lords' Select Committee, a letter from Sir Thomas Clarges (Annex (*a*) below) was read, and it was *Ordered* that he should be heard on 26th, as well as all the other Creditors, notice being given them by fixing the Order on the Doors of the House. *Counsel* are asked how much of the Estate was in the L. Stawell, what the value of the Estate is, what may prevent my Lady's Dower, what Articles there were? *Answer.* All the Estate was in the L. Stawell in tail, except an estate in Wilts which was in lease for 2,000 years for payment of Ralph L. Stawell's debts. The Estate is about 6,000*l.* per ann. in value. My Lady is persecuted (?) in the Bill. In strictness, my Lady may demand 7,000*l.* Dower. My Lady's portion is no part of L. Stawell's Estate. She's beholding to nobody for it. It is Littleton's Text that she shall have her Dower. My Lady may bring a Writ of Dower. We insist on no Articles. *Sir Wm. Rawlinson* (for Lady Mulgrave): She can recover nothing but the peppercorn reserved till after the lease. Strictly speaking, my Lady's portion are Assets to pay L. Stawell's debts. My Lady cannot recover Portion, Jointure and Dower. *Sir Tho. Powys* (for Lady Stawell): The incumbrances are subsequent to the marriage, and my Lady is entitled to priority. The terms for years precedent were assigned over to attend the inheritance. The debts precedent are about 20,000*l.* The personal estate near 29,000*l.* My Lady, being Administratrix, may remove these prior incumbrances. The Deeds of Assignment of the terms of years are in part read. A Particular of the debts &c., by Mr. Hunt, a Trustee, is read (Annex (*b*) below). *Mr. Hunt*: We imagine the whole Estate may be worth 80,000*l.* In quieter times, it may yield more. My Lady thinks the personal Estate may be 23,000*l.* Lady Grace Pierpoint's mortgage for 11,000*l.* is in 1690. The mortgage to the sisters &c. is before the marriage. Sir Tho: Clarges, for 30,000*l.*, is since the

* A marginal Note in MS. Min. states that "Lady Stawell and Lady Howard of Escrick had a chair at the Table."

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marriage—On 26 Feb., *Sir Thomas Clarges* excepts to the payment of Ralph L. Stawell's debts, but he hears the Bill will be mended in that particular, which if, then he consents to the Bill, it being so greatly for the good of the family. His Security is since the marriage. He takes [it] the Dower cannot affect his Security. There is an Assignment of a term of 99 years to protect the Security from incumbrances. *Mr. Adams* produces the Deeds of 25 and 27 July 1691. The estate that is subject to Sir Tho: Clarges' Security is but 1,690*l.* The estate that is under Ralph L. Stawell's estate is 2,800*l.* per ann. Here is nothing on this estate that bars my Lady's Dower. This estate, at 20 years' purchase, will sell for 57,200*l.* *Mr. Serjt. Rawlinson*: There is 70,000*l.* to be paid before my Lady can legally have Dower. Neither at law nor equity can she have any Dower. *Sir Tho: Powys* (for Bill): Cothelston is subject to Dower; so is the 20,000*l.* If the estate be sold, the child will have 20,000*l.*; but it cannot be sold unless my Lady considered for her Dower; and, if it be not sold, the child will have nothing. A letter from L. Stawell to Mr. Reading, touching charging his estate with a rentcharge of 1,500*l.* a year to his Lady for a jointure, is read. A memorandum found in L. Stawell's secretaire, of his Lordship's intention to secure 1,500 per ann. jointure to his Lady, is read—On 28 Feb., *Mrs. Anne Stawell* says she consents to the Bill as it now is, but, if any alterations be made, she desires, because several others are concerned with her, that she may have time to advise with her Counsel. *Mr. Dobyns* is heard for my Lady Stawell as to her Dower. *Lady Stawell* says she submits her concern to the Committee. Then the Bill was begun to be read and it was *ordered* that Counsel attend to-morrow and that the House be moved that a Judge may then attend—On 1 March, *Mr. Grange* (for the Creditors) is heard to an amendment offered to be made in 20th line of 5th sheet, and agrees to it.* *Sir Barth: Shore* is heard for L. Stawell. *Mr. Justice Eyres* is directed to draw a Saving that the Bill shall not prejudice L. Stawell nor Lady Grace Pierpoint, and that Counsel attend him with such a Saving. *Memo:* that the Amendments proposed by *Mr. Brocket* in ll. 13 and 14 of 6 sh. be considered to-morrow. They are waived by Mr. Brocket.† *Memo:* there be blank for additional Trustees. Then several Amendments were made—On 2 March, the Saving ordered yesterday to be drawn is offered and read. Ordered that Sir John Austin Bart., be added as a Trustee through the Bill where the Trustees are named.† The Bill was then *ordered* to be reported with the amendments in Annex (*c*) below. (Com. Book, Feb. 24, 26, 28, March 1, 2.)—The Bill was read 3ª the next day, a literal amendment was made in it, and it was passed and sent to the Commons (L. J., XV. 384, MS. Min.) who amended it (*see* C. J., XI. 141–2) and returned it on 31 March (L. J., XV. 408)—On 2 April all the Commons' amendments were agreed to except the Clause marked B, which gave rise to a debate, and Mr. Lee was ordered to make out his title the next day (*ib.* 409)—On 3 April *Sir Bartholomew Shore* was heard at the Bar for Mr. Lee: We have a Grant under L. Stawell's hand and seal for this annuity, and we showed it at the Committee of Commons, and it was allowed of.

* No amendment appears in this place in the Bill, but Robert Cecil is added to the Trustees in the next line, as an interlineation, and Sir John Austin is added as a further interlineation; and though these additions do not appear as an amendment in Annex (*c*) below in this line, they are given effect to throughout the rest of the Bill in the shape of consequential amendments.

† The Bill was marked for amendment here, but the marks are struck through. The amendments are given in (*c*) below, and are merely drafting ones.

1693-4. — No. 801. The General Saving will not do his business. It is an obligation that binds his heirs. L. Stawell had power to make this Grant, and there was a good inducement for him to do this. Mr. Lee continually applied nimself to L. Stawell's service with my Lord Stawell actually, and one year this duty, as by the Goldsmiths' books appears. . . . This Proviso does not affect the estate to be sold. If this Act passes, we cannot sue any one. *Sir Tho: Powys*, for the Bill, cited the Deed and the Saving in the Bill. The House disagreed to the Clause and named a Committee to draw Reasons (*ib.* 409, 410; MS. Min.) The Commons did not insist, and the Bill received the Royal Assent on 16 April (L. J., XV. 412, 417) 5 & 6. W. & M. c. 34 in Long Calendar.]

Annexed :—

(*a*) 24 Feb.—Letter from Sir Thomas Clarges to E. Mulgrave. stating that he was a creditor of the estate, and had not yet seen the Bill, or been in any sort consulted about it. Begs him, if posible, to postpone the Bill till Monday, that he may peruse it and advise with the rest of the creditors. *Signed* Tho : Clarges. *Dated* 24 Feb. [Read this day in Lords' Select Committee. *See* Notes to first paper.]

(*b*) 24 Feb.—Paper *endorsed* "A Paper offered by Mr. Serjt. Rawlinson, writ, he saith, by Mr. Hunt, the Trustee—Lady Stawell." It is as follows :—

The real estate of L. Stawell is worth about 70,000*l.* The debts are about 87,000*l.* What the personal estate is worth the Lady Stawell can best tell. Some say *24,000l.*; others that it 30,000*l.* The best of the goods are sold and disposed of. By the agreement, all moneys that did not bear interest should be paid first out of the personal estate; otherwise the Trustees will have the continual clamour of the servants, labourers and other poor people that are ready to starve for want of their money [Read this day in Lords' Select Committee. *See* Notes to first Paper.]

(*c*) 2 March.—Paper of Lords' Amendments in Select Committee. ordered to be reported this day. The effect of them is given in lescription of Bill above

802. Feb. 16. Writ of Summons (L. Butler of Weston).—Writ of Summons, dated 13 Feb., to Charles Butler de Weston, Chr., who was introduced this day, MS. Min.; L. J., XV. 371. *In extenso.*

803. Feb. 16. Whitley's Estate Act.—Consent of Robt. Clayton, M. Biddulph, Ro. Whitley, Thomas Lewes, Thomas Whitley, Elizabeth Whitley, J. Mainwaring and Wm. Jones, as surviving Trustees, to the passing of the Bill to enable Roger Whitley, the Elder, Esq., and Thomas Whitley, Esq., to exchange certain lands of equal value within the county of Chester. [Read this day in Committee (Com. Book.) The Bill was brought from the Commons on 10 Feb; Royal Assent 23 March (L. J., XV. 365, 402.) 5 & 6 W. & M. c. 16 in Long Calendar.]

804. Feb. 17. Skinner and another *v.* Gwyllim and another.—Petition and Appeal of John Skinner and Thomas White. The elder Respondent, whose wife had a rent-charge of 20*l.* a year out of the Appellant Skinner's manor of Donnington, co. Hereford, employed his son, the other Respondent, to receive the half-year's rent for Michaelmas 1689, as he had done for him before. Skinner tendered him the 10*l.*, less an abatement of 15/10 for taxes, but the son refused to take less than the full amount. The elder Respondent then distrained on

Skinner's tenant White, and in an action of replevin, obtained a verdict. Appellants then brought a Bill in Chancery, but the Lord Keeper, on 19 May last, while allowing a claim for abatement for taxes, decreed Skinner to pay not only the arrears of the residue of the rent-charge, but also Respondents' costs, which have been taxed at 120*l.* Pray that the decree may be reversed and Respondents ordered to answer. *Signed* by Appellants; *Countersigned* by Edw. Hildeyard and Abra. Dudley, L. J., XV. 372. [The Cause was heard on 7 March, *Sir William Thompson* (for Appellants) opens the case. *Mr. Sloane* (for Appellants): Our remedy by the Decree is worse than the disease. Our Appeal is only singly to the costs. *Sir Thomas Powys* (for Respondents): Costs must be in this case. *Sir Bartholomew Shore* (for Respondents) is heard. *Mr. Sloane* heard in reply. Appeal dismissed, and Decree affirmed with 20*l.* costs. (MS. Min.; L. J., XV. 387).]. 1693-4 — No. 804

Annexed :—

(*a*) 27 Feb. 1693–4. Answer of Thomas Gwyllim the Elder, and Thomas Gwyllim the younger. The rent-charge was granted to Appellant Skinner's wife Elizabeth, by John, his grandfather. The younger Respondent refused to accept sum tendered, no abatement for taxes having been before allowed. The elder Respondent, on learning the demand for abatement, agreed to receive the sum with the deduction, but Skinner then refused to pay anything, insisting that he had made a legal tender, which was refused. Appellants in their Bill in 1691 suggested that the premises were so entailed, that Skinner the grandfather had no power to charge them. The Bill was dismissed, for non-payment of the costs certified by the Master. Pray that the dismission may be affirmed, and the Appeal dismissed with costs. *Signed* by Respondents. *Endorsed* as brought in this day.

805. Feb. 22. Cavendish's Estate Bill.—Amended* draft of an Act for increasing the present maintenance of the Honble. [Mr.] Henry Cavendish *Esquire*, and for providing a jointure for such woman as he shall marry during the life of his father, the Earl of Devonshire. The suppliants are William, E. Devonshire and Lady Mary, his wife, Henry Cavendish one of their sons, John, E. Exeter, Thomas, E. Ailesbury, Richard Newman and Robert Butler, Esquires. Whereas by indentures of lease and release of the 10th and 11th July 1683, (the release being tripartite, and made between William, late E. Devon of the 1st part, Edward Coot and Robert Rate of the 2nd part, and John E. Exeter, Thomas E. Ailesbury, by the name of Thomas Lord Bruce, Richard Newman, Robert Butler, Robert, late E. Ailesbury, and Roger Jackson, deceased,) certain lands in the counties of Leicester, Lincoln, Buckingham and Hertford are settled to the use of William, E. Devonshire for life, without impeachment of waste, and after his death to the use of the third parties to the release for 60 years from thence ensuing, upon special trust out of the rents and profits of the premises so limited to allow to Henry Cavendish, after the death of the late E. Devonshire, 250*l.* a year for his maintenance till the age of 14, then 400*l.* a year till 18, and then 600*l.* a year till 24, if William, the now Earl of Devonshire shall so long live, and 1,200*l.* a year after the age of 24 during the life of the said Earl William, the surplusage of the *said yearly* rents and profits over and above such maintenance to be in trust and paid yearly to the said Earl William,

* The additions are marked by italics, the omissions by square brackets.

1693-4. — No. 805. during so long of the term of 60 years as he shall live; a proviso, however, being contained in the deed of release, that if Henry Cavendish shall marry with the consent of his parents, James, late D. Ormonde and John, E. Exeter or their survivor, the term of 60 years shall cease. And whereas the said parents and John, E. Exeter desire that in case Henry Cavendish shall marry, the said term may not thereby be determined, but that he may receive thereout a more ample allowance for his maintenance during his father's lifetime, and that a competent jointure may be provided for his wife. The Bill therefore enacts, that in case of such marriage as aforesaid, the term *of 60* years shall not cease, but shall continue upon trust that John, E. Exeter, Thomas, E. Ailesbury, Richard Newman and Robert Butler shall pay to Henry Cavendish for his maintenance not less than [one thousand seven hundred] *two thousand* pounds, subject only to Parliamentary taxes; and if Henry after such marriage shall die in his father's lifetime, the trustees shall allow his widow any sum not less than *one thousand pounds, nor exceeding one half of the revenue of the premises in the aforesaid indenture mentioned* for her life, in bar of her dower, Provided that the Act shall not alter or impeach the limitations &c., in the said indenture of release save only as to the term of 60 years. Saving etc. [Read 1ª this day, L.J., XV. 376.—On 28 Feb., in C.W.H., L. Cornwallis in the Chair, on the Bill being read, *Mr. Dobyns* was heard for the Bill as Counsel for L. Steward: The Settlement is in 1683, made by Mr. Cavendish Devonshire, to the use of the last Earl for life, then a term of 60 years to Trustees, an absolute *term, and a* limitation over. There is a power for Mr. Cavendish *to receive* the profits at such an age, and out of it to make a jointure; and then there is a Trust until Mr. Cavendish attains several years. The surplus of this is to the E. Devonshire during his life. The Power in the Deed was read. After 1st enacting Clause was read, *moved* that the Judges be asked how the case stands in the law in this case—how far Mr. Cavendish may be relieved in this case in equity—if he marry without the consent of his father and Trustees? *Treby, C. J.:* I think he shall not be relieved in equity. *Eyres, J.*, of the same opinion. After debate, the amendments noted above were made, and the Bill was reported with amendments (L. J., XV. 381; MS. Min. 28 Feb.), and read 3ª and passed, on question, the following day, and sent to the Commons (L. J., XV. 382), where it was carried to a Third Reading, but thrown out on the Question that it do pass (C. J., XI., 147, 154).]

806. Feb. 22. Bishop of Exeter and another *v.* Hele (In Error).—Copy Writ of Error and Transcript of Record, with tenor of Judgment (L. J., XV. 395. *In extenso*) affixed thereto. The Writ of Error is upon a Judgment on a *Quare Impedit* in Common Pleas, and affirmed in King's Bench, in an Action brought by Sampson Hele, Esq., the patron of the living of Southpole [Southpool], co. Devon, against Jonathan [Trelawny], Bishop of Exeter and the Rev. Gawen Hayman. The benefice having become void by the death of the Rev. John Oltamare, 15 April 2 W. and M., Hele, having the advowson, presented one Francis Hodder, whom the Bishop refused to institute, as a person "in literaturâ minus sufficientem," and collated instead of him the co-plaintiff Hayman. The case upon the Record is set out fully in *Shower's* Cases in Parliament 88. See also 4 Mod. Rep. 134. [Writ of Error brought in this day. (L. J., XV. 376.) The Cause was heard on 15 March. *Sir Bartholomew Shore* (for Plaintiffs) opens

1693-4.

No. 806.

the case. The question is, whether their replication is good, and so, consequently, whether our plea is good. I shall show their replication is nought. *Mr. Hawles* (for Plaintiffs) : Their's is not a good replication. 13 Eliz. c. 10. *Mr. Northey* (for Defendant) : This Bishop refused him, though he was examined and admitted by the other Bishop. The question is not as stated, whether the Bishop is to examine. The question is, whether his judgment is final to the patron, and that it is not to be examined in another place. Mr. Hele is agreed on all hands to be the patron. The Bishop pretends only to be the ordinary. *Mr. Dod* (for Defendant) : Mr. Hodder is a minister in Episcopal (*sic*) Orders, and a Vicar with cure of souls. Mr. Hele had reason to think he was "sufficient," because before admitted so to be. *Sir Bartholomew Shore* heard in reply. Report to be made tomorrow (MS. Min.; L. J., XV. 394). On 16 March the *L. Keeper* having reported, it was *Ordered*, that the Judgment be reversed. (MS. Min.; L. J., XV. 395).].

Annexed :—

(*a*) 8 March 1693–4. Petition of Defendant.—Petitioner's Counsel have gone on circuit, and he has been forced to have recourse to others. Prays for postponement of hearing for a few days to enable them to be properly instructed.

807. Feb. 23. Addison *v.* Haddock.—Petition and Appeal of Thomas Addison and Henry Inman, Merchants. Timothy Haddock, by virtue of a lease from the Corporation of Carlisle claims a toll throughout all Cumberland for all cattle and all goods carried on horse-back or men's backs, above the value of 6½*d.*, conveyed into or out of the county, at the following rates, viz^t^ :—

For every bull, ox, cow or steer - - - - -	1*d.*
For every horse - - - - - - - -	2*d.*
For every score of sheep - - - - - -	2*d.*
For every horse-load of any commodity from Scotland or Ireland, on coming into the County - - -	4*d.*
For every horse-load of any commodity from Scotland or Ireland, on going out of the County - -	1*d.*
For every fardel on horse or men's backs, being less than a pack - - - - - - - -	1*d.*
For all goods passing out of the County for Scotland, each pack - - - - - - - - -	4*d.*

This prescription for a toll is illegal and could not have any reasonable beginning, for that such a toll is not grantable, being against common right, and cannot be taken of inland traders, much less of merchants, who are discharged thereof by several Acts of Parliament, which give them free egress and regress and liberty of buying and selling their merchandise, only paying the King's duty. Haddock brought a Bill in the Exchequer against Petitioners, who are merchants concerned only in importing and exporting merchandise in and out of the Kingdom, not in any inland traffic, upon an issue, directed by the Court, to try whether the City of Carlisle had a right to the tolls, whereupon a verdict was bound to be against Petitioners if any usage were found for any, though not to all the tolls claimed; and it appearing on the issue that the City had *de facto* taken tolls for cattle and some other commodities, though not for merchandise imported, the verdict passed against Petitioners, and on 13 Nov. 1691 Haddock obtained a decree not only for tolls of such goods as are contained in the pretended prescription, but also for goods carried on

1693-4. — No. 807. horseback and men's backs and for other commodities imported from abroad, such as tobacco, sugar, raisins, prunes and brandy. Prays that this decree may be reversed, and proceedings thereon stayed. *Signed* by Appellants; *Countersigned* by Creswell Levinz and Hen. Chetham. L. J., XV. 377. [The Cause was heard on 9 April, *Sir Creswell Levinz* (for Appellants). There was an issue directed out of the Exchequer, and it was found for the Plaintiff, and so it must be, if he had a right to one pennyworth of them. They may have a *right to* some tolls, but the merchandizing trade is the dispute. This *is a toll* for going on the King's highway. To pay toll for going along the King's highway is strange. If this be so, every parish in England must have toll. *Sir Bartholomew Shore* (for Appellants): The original reason is changed, and so it is not applicable in this case. My clients were never concerned but as merchants. We were tied up to a certain issue, which must needs go against us. This toll, as it is set out in their pleadings, cannot reach to merchandize. The very evidence calls it Scotch tolls. *Sir William Thompson* (for Respondents): They might have had a new trial and have had an issue settled. *Sir Thomas Powys* (for Respondents): This is a very unreasonable Appeal, and if they had looked into the issue, they would not have complained. The thing, we agree, is properly before a jury. The issue offered them is as particular as they please. For 4*l.* 12*s.* this has been controverted. *Counsel* for Appellants heard in reply. Counsel withdrew, and *L. Keeper* reported. *L. C. Baron* [*Atkyns*] heard concerning the issue directed in the Exchequer: "*I verily* believe, if they had pressed it, we should never have denied another issue." *Ordered* that a new trial be had, &c., as in L. J., XV. 411, with the exception that the County of Cumberland is named instead of Lancaster. (MS. Min.). The following day an addition was made to this Order, and witnesses' depositions ordered to be made use of on either side. (MS. Min.)]

Annexed:—

(*a*) 14 March 1693–4. Petition of Respondent. Most of Petitioner's papers are at Carlisle, and his title is made out chiefly by the ancient charities and records of the City, which he cannot get at present. Prays for further time till the 30th inst. to answer. *Endorsed* as read this day. L. J., XV. 393.

(*b*) 2 April 1694. Answer of Timothy Haddock. The City of Carlisle time out of mind has enjoyed certain liberties, &c., which have been confirmed by Letters Patent under the Great Seal, under certain yearly rents reserved and still payable to the Crown; and the citizens, in respect of their situation near the borders of Scotland and the defence which the city has been to the County against the freebooters and robbers on the borders, and in regard of certain banks which the citizens time out of mind maintained and repaired at their own charge, whereby certain rivers were fenced out of highways and common-roads, to the safety of the inhabitants and travellers in and through the county, have time out of mind enjoyed certain tolls for cattle and goods. The City granted these tolls to Respondent for a term of years now long since expired, during which term Appellants had divers cattle and goods brought into or carried out of the county to be sold, for which they refused to pay toll. After a fair trial, it was found that all the tolls in question were payable. Prays that the Appeal, which is only for delay, may

be dismissed with costs. *Signed* by Respondent; *Countersigned* by Jo. Baggs. *Endorsed* as brought in this day.

808. Feb. 23. Chaplin's Estate Act.—Petition of Barnes Peacock to the Committee on the Bill. Petitioner is creditor for 600*l.* to William Chaplin, deceased, for part of which there is a judgment which, as Petitioner is advised, will effect the lands now desired to be settled by the Bill. Prays to be heard by Counsel and that the Bill may not be allowed to pass without some consideration of his demand. [Read this day in Committee, and Petitioner ordered to be heard. (Com. Book). The Bill for the sale of the estate of Susan Chaplin and Dorothy Chaplin her daughter, for payment of debts, and making a provision for the said Susan and Dorothy, was brought from the Commons on 13 Feb.; Royal Assent 23 March (L. J., XV. 367, 402), 5–6 W. & M. c. 23 in Long Calendar. The above Petition was read again in Committee on 9 March. *Mr. Daniel* (for Petitioner) says they have a judgment for a debt, and this Bill takes away the right they have to have their debts satisfied. *Mr. Squib* and *Mr. Phipps* (for the Bill): The judgment will not charge the land. It is after the settlement upon marriage. He has not yet taken out his *Elegit*. The settlement is produced. After some further proceedings on 15 and 16 March, the Bill was reported without Amendment. (Com. Book of dates).]

809. Feb. 24. Rogers' Estate Bill.—Draft of an Act for sale of the Estate of George Rogers, for payment of the mortgages thereon, and applying the overplus for the benefit of himself and his wife Whereas on and before the marriage of George Rogers, of London, Gent., and Elizabeth, his now wife, the daughter of John Johnson, an Attorney-at-law, late deceased, who brought no portion with her, Johnson prevailed with Rogers to execute a settlement of all his lands as follows, (viz^{t}., the messuage with the malt house, etc. in Dartford, Kent, then or lately occupied by John Harris; the messuage known as Fullwich, with 34 acres of land and 5 acres of fresh marsh, then or lately occupied by Matthew Hadlowe; 34 acres in Dartford, then or lately occupied by Robert Harwood *alias* Taylor; 22 acres of land and two acres of marsh in Dartford, then or lately occupied by John Harbottle; 16 acres in Dartford occupied by the said John Harbottle; 3 acres in Dartford then or lately occupied by Joseph Ward; the messuage in Dartford then or lately occupied by John Edgett; the messuage in Dartford then or lately occupied by John Eves; the messuage in Dartford then or lately occupied by Thomas Roper; the messuages in Dartford then or lately occupied by John Milles and Thomas Eves the elder; and all other messuages or lands of George Rogers in Dartford or elsewhere in Kent) to the use of himself for 99 years only if he lived so long, and after the surrender, forfeiture or determination of that term to the use of John Johnson and Richard Normansell, Gent., during his life, in trust to preserve the contingent estates; and after the death of Rogers or other determination of the term, to the use of Elizabeth, his wife, for her life, and after the death of the longer liver of Rogers and his wife, to the use of their sons in tail male with remainders over; whereby he is disabled from disposing of the inheritance for payment of his debts, although he never submitted or consented to make any settlement of his estate other than a jointure for his wife's life only in case she should survive him; And Johnson, having got the said settlement, concealed the same; whereas Rogers, in confidence that he and his wife had power to dispose of the premises, as they pleased, borrowed 600*l.* of one James Conaway, Gent., on a mortgage thereof, except the 3 acres of land and the several

1693-4. — No. 809. messuages occupied by Joseph Ward, John Edgett, John Eves, Thos. Roper, John Milles and Thomas Eves, which mortgage Conaway was prevailed on to accept by the assurance of Johnson that there was no settlement made nor portion having been paid that the same was a good security ; and the said settlement lately appearing and the premises so mortgaged not being above the yearly value of 55*l.* to be let, the yearly profits will not in the lifetime of Rogers and his wife or in any reasonable time satisfy the debt without raising moneys by sale of the premises, and in the meantime Rogers and his wife have nothing for their livelihood but the rents of the 3 acres and 6 messuages not mortgaged, which are not worth above 14*l.* a year ; Therefore at the suit of Rogers and his wife and Conaway, the Bill enacts that the said deeds of settlement shall be null and void, and that the premises shall be vested in (*blank*) in trust to sell them for payment of the mortgage; the surplus to the benefit of Rogers and his wife. Saving, etc. [Read 1ª this day, L. J., XV. 378. In Com. Book of 2 March the following is recorded: "The debt charged on the estate for which the estate is proposed to be sold, being secured by mortgage since the marriage settlement, and consequently the estate not chargeable therewith longer than the father and mother live, the Committee are of opinion to report the same specially, and to receive the direction of the House. The debt is 600*l.* and Mr. Rogers proposes the selling 30*l.* per annum to pay it, and that the rest may be settled on the child." This Report does not appear to have been made, and the Bill accordingly dropped in Committee.]

Annexed :—

(*a*) 2 March 1693-4. Letter, of date, from Richard Normansell to the Bishop of London, consenting, as one of the four trustees on the settlement of the estate upon the wife and children (two of which trustees are dead and the fourth beyond sea) to the passing of the Bill. *Dated* Aldersgate Street. [Read in Committee this day. (Com. Book).]

810. Feb. 26. Beverley's Estate Act.—Amended draft of an Act for vesting in Trustees the Estate late of Sir James Beverley in Huntingdonshire, to be sold [for discharging incumbrances thereupon, and for provision of the widow and children of James Beverley, grandson of the said Sir James ; and for payment of the surplus of Thomas Beverley, the heir male of the said Sir James].* The Lords' amendments, besides a few drafting ones, were to add the names of the two sets of Trustees, the words giving Dame Priscilla 500*l.* in satisfaction of her dower, and Robert Beverley 200*l.*, and the date of the commencement of the Act, to leave out words in the preamble to the effect that Dame Priscilla had released her title of dower after her husband's death, to add Robert Beverley as a remainderman, the words making the funds for the daughters' maintenance payable to their mother, Anne Beverley, the clause vesting in Elizabeth Webster the property left her by her grandfather's will, together with the Saving for Jane Jermy (Annex (*d*) below), and last proviso for Thomas Dockwra. The Commons' Amendments are set out in C. J., XI. 159, and were agreed to by the Lords (L. J., XV. 418). [Read 1ª this day; Royal Assent 25 April following (*ib.* 378, 426). 5 & 6 W. & M. c. 46 in Long Calendar. In Lords' Select Committee, a Petition of Dame Priscilla Beverley (Annex (*a*) below) was offered on 2 March and she was ordered to be heard together with the other persons concerned.—It was read on 7 March.

* Struck out in Lords' Select Committee.

1693-4. — No. 810.

when *Mr. Selby* said she opposed not the passing of the Bill, but that her right might be saved by a particular Clause. *Mr. Sloane* (for the Bill): We pray she may not have a better title by this Bill than she had before.—On 8 March, *Mr. Selby* (for Lady Beverley) prays a reparation for her, as well in respect of the fraud put upon her in relation to the personal estate, as well as in relation to her dower. *Sir Barth. Shore* (for the Bill): We agree my Lady shall have what she desires. Mr. Beverley claims not from his father. We desire another day to speak together in this matter.—On 10 March *Mr. Sloane* offered Lady Beverley 300*l.* and *Mr. Selby* offered to take 500*l.*—This was agreed to on 12 March, when, as well as on 13th, the amendments noted above were made (Com. Book, March 2, 7, 8, 10, 12 and 13). The Fee on this Bill is noted as 30*l.* (MS. Min. 28 Feb.)]

Annexed:—

(*a*) 2 March. Petition of Dame Priscilla Beverley, widow. Sir James Beverley, Petitioner's late husband, died about 23 years since, being seized of the manor of Gaines and other lands in Huntingdonshire, of the yearly rent of 600*l.*, and of other lands in Kent of 400*l.* a year, and of a personal estate of at least 10,000*l.*, and gave Petitioner and her three children 3,000*l.* and made his eldest son, Thomas, his executor, giving all his real estate to him for 60 years if he should so live, and after his death to James, his son, in Tail. Petitioner, being defrauded by Thomas, the executor, of all the 3,000*l.*, and being left without subsistence, brought her writ of dower, and recovered 200*l.* a year, and was in possession of so much of the manor of Gaines. Long after this recovery of dower, the said Thomas and James, his eldest son, mortgaged the manor to Sir John Foache and others, who got into their hands an old mortgage, satisfied before Sir James Beverley's purchase, as the endorsement showed, of which mortgage they procured an assignment, and ousted Petitioner at law of her 200*l.* a year, and since 1688 have allowed her only 16*l.* a year besides taxes, to support herself and children. Sir John Foache joining with Thomas, the second son of Thomas Beverley, the executor, and Ann, widow of James Beverley, eldest son of the said executor, has brought a Bill for vesting the manor in trustees to be sold, without making any provision for Petitioner and her children. Prays to be heard by Counsel, that she may not be barred of her rights to dower. [Offered this day to Lords' Select Committee. *See* Notes to first Paper above.]

(*b*) 12 March. Paper of admendments made this day in Lords' Select Committee. The effect of these, taken in conjunction with those in next Paper, is given in description of first Paper above. [Com. Book.]

(*c*) 13 March. Paper of amendments made this day in Lords' Select Committee. *See* preceding entry.

(*d*) 13 March. Draft Clause, immediately preceding General Saving Clause, vesting in Elizabeth Webster absolutely the property left her by her grandfather's Will, and Saving Clause for Jane Jermy, added this day in Lords' Select Committee. *See* preceding Annex.

(*e*) 13 March. Draft of last section of Act, being the Proviso for Thomas Dockwra, added this day in Lords' Select Committee. *See* Annex (*c*) above. Written at the top are the concluding

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words of a clause relating to Elizabeth Mellish and Anne Jolliffe.

811. Feb. 27. Naturalisation (Olivier) Bill.—Draft of an Act for the naturalisation of Daniel Olivier. The Bill describes him as the son of Philip Olivier and Mary his wife, born at Chandenier, in Poitou, in the Kingdom of France. [Read 1ª this day (L. J., XV. 380), but not further proceeded with. Daniel Olivier was naturalized by D'Ofarrell and others Naturalization Act, 5-6 W. & M. c. 47 in Long Calendar.] (*See* No. 828.)

812. Feb. 27. Attorney General on behalf of the Poor of Leverington *v.* Swayne.—Petition and Appeal of Sir Edward Ward, Knt., their Majesties' Attorney General, on behalf of the poor of Leverington, within the Isle of Ely. About 1633 Thomas Crosse devised by will two houses, since divided into four, and an acre of land to the use of such poor of the parish as did not receive alms, and the same were enjoyed till 1661, when Robert Swayne, under colour of a pretended purchase from the grandson and heir of Crosse, withheld the houses, with certain lots of fen and marsh ground thereto since allotted, in all worth about 12*l.* a year, from the benefit of the said poor. The Relator, Henry Perne, Parson of the parish, having knowledge of this, exhibited an Information in 1691 in the name of the Attorney General for the recovery and settlement of the charity and for arrears, and the Lords Commissioners, on proof given that the purchase was fraudulent and made with notice of the Will, decreed on 9 Nov. 1691 (Annex (*a*)) that the four houses and acre of land, with the fen and marsh ground since allotted, should be applied for ever to the use of the poor according to the Will, but as to the profits withheld for thirty years, found Respondent liable only from the date of the Information, leaving also the Relator's costs a charge on those arrears. Appeals from this Decree, and prays that Respondent may be ordered to answer and show cause why he should not account for the profits during the whole time they were withheld and pay the Relator his costs. *Signed* by Edw. Ward; *Countersigned* by Thomas Powys and Jonath. Gorstelowe Snow. L. J., XV. 380. [The Cause was heard on 27 March. *Sir Thomas Powys* (for Appellant) opens the case. One Thomas Crosse was seized of a parcel of land in Lincolnshire. There were two houses built thereon. By his Will he devised these houses to his son, that the poor might have the advantage of them, and the poor enjoyed them between 30 and 40 years. The poor are to pay the costs. (The Decree is read). *Mr. Phimer* (for Appellant) is heard. They produced the Deed and the Bond, and this we cannot come at without your Lordships' help. *Mr. Northey* (for Respondent): The Will, which gave the Charity, was in 1633. The value is but 4*l.* a year in the whole. *Mr. Dod* (for Respondent) is heard. *Sir Thomas Powys* heard in reply. They read several depositions. *Mr. Northey* heard in reply to what they read. Thomas Baye's [Answer] to the 7th Interrogatory is read. Counsel withdrew, and *L. Keeper* reported. Part of the Statute 43 Eliz. read. The Judges heard. *L. C. Baron* [Atkyns]: I think there is presumption of notice. Violent presumption is as good as notice. *Nevill, J.*, of the same opinion. *The Attorney General*: Anything that informs the party that purchases, that it was given to Charity is notice. After debate, Decree in part reversed, with directions. (M.S. Min.; L. J., XV. 404).]

1693-4.
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No. 812.

Annexed :—

(*a*) Copy order of Lords Commissioners of 9 Nov. 1691. The Order, after reciting how certain lands were devised to the benefit of the Poor of Leverington by the wills of Thomas Crosse, Anne Crosse and one Charton, and how Swaine subsequently purchased certain of the said lands, decrees as related above. *Signed* Carew Gaudett. Deput. Reg.

(*b*) 7 March 1693-4. Petition of Respondent. Petitioner, who is 77 years old, as appears by the annexed certificate, is required at Cambridge, being a Justice of the Peace and Deputy Lieutenant and Captain of the Militia, and his papers require perusing. Prays for further time to answer. [Read this day and rejected. L. J., XV. 387.]

(*b*1) Certificate of Respondent, dated 2 March, referred to in preceding.

(*c*) 14 March. Answer of Robert Swaine, of Leverington in the Isle of Ely. Respondent knows of no Will of Thomas Crosse otherwise than by the allegation of the Relator, nor that the premises were ever used as almshouses, but he believes that many of the tenants have not paid rent as they should have done. Respondent was a *bonâ fide* purchaser for 40*l.*, being about 15 years' purchase, the usual rate in that county and more than the common value of houses. On the division of the commons and fens made under the late Act, about six acres of land in Leverington fen and about one acre and three roods in Leverington marsh were allotted to Respondent in right of the cottages and in lieu of common. The Information was brought for divers other matters beside the charity in question. Respondent never had any notice of the charity. The Relator has endeavoured to force Respondent and his fellow-parishioners to comply with his unjust demands of tithing, contrary to the ancient mode which was recognised by all Relator's predecessors, rectors of Leverington ; and has not only refused the Sacrament to several of his parishioners unless they would yield compliance, but has promoted suits against them and Respondent to their expense of more than 300*l.* *Signed* by Respondent ; *Countersigned* by Edw. Waldegrave. *Endorsed* as brought in this day.

813. Feb. 27. Leckby Manor Act.—Amended Draft of an Act for the vesting the third part of the Manor of Leckby *alias* Letby and other lands in the County of York in Trustees, to be sold, and for settling a farm and other lands in Terling and Much Leighs in the County of Essex, of greater value, to and upon the same uses. The Lords' Amendments (Com. Book 15 March) are to insert the date of the commencement of the trust and the names of the trustees. The Commons' amendments are given in C. J., XI. 145. *Endorsed :* Brewer's Bill. [Read 1ª this day ; Royal Assent 16 April (L. J., XV. 379, 417). 5–6 W. & M. c. 36 in Long Calendar. The Fee on this Bill is noted as 27*l.* 10*s.* (MS. Min. 28 Feb.)]

Annexed :—

(*a*) 15 March. Consent of Alexander Weld,* Esq., father of Mary, the wife of George Brewer, to the passing of the Bill. *Dated* 10 March, 1693–4. *Signed* Alexr. Weld ; *witnessed* by Jam.

* Alexander Weld and James Allen sworn to attend the Committee on 14 March. (MS. Min.)

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Allen, and James Allen. [Read in Committee this day. (Com. Book.)]

(*b*) 15 March. Consent of Richard How, to the passing of the Bill. *Dated* 12 March 1693–4. *Signed* Ric. How ; *witnessed* by Alex. Weld, jr. [Read in Committee this day. (Com. Book.)]

814. Feb. 28. Merchants Insurers (War with France) Bill.—Commons' Engrossment of an Act to enable divers Merchants Insurers (*who* have sustained many losses by the present war with France) to satisfy *their* several Creditors. Whereas John Berry, Nathaniel Molyneux, George Sitwell, Henry Mansfeild, Samuel Nash, John Jurin, Gilbert Nelson, John Baker, John Prince, John Hodges, Charles Toriano, John Ashby, George Burrish, Henry Harrington, Edward Callender, Mark Praedfott, James Cretchtown, Daniel Foe, and Charles Blackhall have been known merchants and traders beyond the sea for many years past, and have paid great sums of money to the Crown for customs upon goods exported and imported, and always honestly and truly discharged their several credits as well in this Kingdom of England as in parts beyond the sea ; And whereas the interest of trade hath for many years past and since the beginning of this present war with France been promoted and carried on by assurance upon ships and goods outwards and homewards ; And whereas in all trading nations the custom of Assurance hath been always esteemed necessary and useful and practised by the best of Merchants, and that it hath been as much encouraged *in this* Nation as any foreign parts, appears by Acts of Parliament *made in* favour thereof, and which hath greatly encouraged and promoted the trade and navigation of this Kingdom and advanced the revenue of the Crown, many of which ships and goods, so assured by them the said Merchants before-named, have been taken and made prizes by the enemies of this Kingdom, by which means they have sustained such losses as tend to their utter ruin, having paid since the war with France very great sums of money for losses by Assurance as aforesaid, by which means the greatest part of their capital is exhausted, which was considerable, and they stand yet indebted unto divers persons divers sums of money, which at present they are incapable of paying, and are now forced to withdraw themselves from their habitations and leave their families in great distress ; and in regard many of the Adventures they have insured upon ships and goods being still running are not known whether they will prove losses or not, and many of the said assurances being made to persons in trust for others by Commission, who live some of them beyond the seas and other remote places, both persons and abode being unknown, they the said Merchants before-named are uncapable of making a true judgment of their several circumstances, not knowing at present what they shall be able to pay their several creditors ; And whereas most of their several creditors being satisfied that the many great losses that have befallen them, did not happen through their own neglect or default, but were chiefly occasioned by the miscarriages of the sea affairs, are contented to take such proportions of their several and respective debts as are hereby directed and required, but others of their creditors, fewer in number and for much the lesser part of their respective debts, insist upon their full debts or the severity of the law ; And whereas some of them, the said debtors before-named, have already made Proposals and Offers in writing to their several creditors for the satisfaction of their several debts, to which the far greater part of their said creditors have agreed by signing and sealing the same ; But forasmuch as the said writings are

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not agreed unto and signed by their whole creditors, are of no use to them nor any of them the said debtors before-named; Be it therefore enacted, etc., That whatsoever instrument, writing or agreement hath been or shall be signed and sealed by such creditors to whom two third parts of the debts by every respective debtor aforenamed shall be due, shall conclude and bind all the rest of their * respective creditors as fully and effectually as if they, the remaining part, had actually complied to such instrument, writing or agreement, and shall be a bar to all actions, suits and demands whatsoever, which are, shall or may be brought or prosecuted, either at law or in equity, by any of the creditors for any other or lesser sum than shall be contained in the said agreement.

Provided always, that the said debtors before-named, or such of them as expect any benefit by this Act, that have not already or do not within eighteen months after the five and twentieth day of March, which shall be in the year of our Lord one thousand, six hundred, ninety and four procure such instrument, writing or agreements with the majority of their respective creditors as aforesaid, to be *bonâ fide* made without fraud or collusion, shall not reap any benefit or advantage hereby.

And be it further Enacted by the authority aforesaid, That after such instrument, writing, agreement or agreements made, every the said debtors shall within two months tender the same to their remaining respective creditors or their agents, executors or administrators, at their several habitations, or shall leave the same at the public office of Assurance on the Royal Exchange, London, for the space of six weeks, to be by them signed and sealed as aforesaid, if they shall think fit.

And be it further Enacted by the authority aforesaid, That as to several policies of Assurance entered into by the said debtors before-named to any person or persons, That if such person or persons, to whom such Assurances are made and given, shall not make their claim and demand of satisfaction for such losses as have or shall happen upon the said policies, and declare for whose interest, by the nine and twentieth day of September in the year of our Lord one thousand, six hundred, ninety and four, at the public office of Assurance on the Royal Exchange, London, there to be fairly entered on books kept for that purpose, such person or persons shall be subject and be bound by the said agreement of the creditors to whom the said two-thirds of the debts by every respective debtor aforenamed shall be due, to all intents and purposes, as if he or they and every of them had signed the same agreement.

And be it further Enacted, by the authority aforesaid, That for and during the respective times before-mentioned, no action or suit shall be commenced or prosecuted against any of the said debtors in any Court or Courts of law by any of their respective creditor or creditors, or held to special bail for any matter relievable by this Act, but that such debtor and debtors respectively, in case any such shall happen, may plead the substance of this Act in abatement, which shall be allowed of by the said Courts.

And be it further Enacted by the authority aforesaid, That if at any time after the said respective debtors have executed and performed the agreements and conditions hereby directed and appointed, any suit or action shall be brought or prosecuted by any of their said creditors, such debtor or debtors shall and may plead the general issue, and at the trial or trials of such cause or causes, shall and may give this Act and the

* Here (at Sk. 3, l. 5 of the Engrossment) some words are erased.

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And to the end, intent and purpose that just and fair proceedings may be had between the said creditors and debtors, and all agreements and compositions pursuant to this Act may be made without fraud or collusion; Be it further enacted by the authority aforesaid, That the said respective debtors shall, within two months after the time before limited for the said creditors to make claim of their debts as aforesaid, in writing under their hands appoint a certain day and at some *public* or convenient place within the City of London, when and where they shall desire their creditors to meet, in order to the said agreements, of which day and place the said debtors shall give notice in writing under their hands as aforesaid to as many of their said respective creditors, in or near the said City of London, as they possibly can, or to their factors or agents, or leave a copy of the said notice at their respective dwelling-houses or places of abode, in case of absence, ten days at the least before such intended meeting; And if at such general meeting it be required by the major part of the creditors then present, that the said debtors or any of them shall produce their books of accounts, that then the said respective debtors, whose books shall be so required, shall, within five days after, deliver or cause to be delivered their said respective books, or true copies thereof under their hands, sealed up, to such persons, not fewer than three, as the said major part of the said creditors shall appoint, in trust and for the benefit and inspection of the said creditors and debtors at all seasonable times after agreements of composition made pursuant to this Act, within three months after such agreements and not otherwise, nor for longer time; and after that time, or in case no such agreements be made with the said respective debtors within the time limited as aforesaid, their said respective books or copies shall be re-delivered upon demand by the said trustees to the said respective debtors in the same state and condition as they were delivered to them; And if the said two-thirds of the creditors of the said respective debtors shall distrust any debtor or debtors as to the truth of their book or books of account, That then such debtor or debtors shall, within ten days after notice, given to him or them in writing under the hands of such two-thirds of the said creditor or creditors of such distrust, make oath before the Lord Mayor of the City of London for the time being, That the same book or books of accounts or copies of such books are true and do contain their respective whole estates to their respective knowledges, which oath the said Lord Mayor is hereby empowered to administer. *Parchment Collection.* [Brought from the Commons this day (L. J., XV. 381). On 9 March the Bill was read 2ª, Committee negatived, and Bill, on question, rejected. (MS. Min.; L. J., XV. 390).]

815. March 3. Bankrupts' Estates Bill.—Commons' Engrossment of an Act for the better recovery of Bankrupts' Estates, and for the more equal distribution thereof.

Whereas the laws heretofore made against bankrupts are defective in many cases, and it is found by experience that few of their creditors, even after a tedious and oppressive prosecution of Commissions of Bankruptcy recover their debts or any considerable part thereof; And whereas bankrupts who are not able to pay their full debts, are oftentimes desirous to compound for the same, or to satisfy their creditors to the utmost of their power, but by the perverseness of some few creditors, or the incapacity of others, who are disabled by the present laws to make any composition, such good intentions have been obstructed, to the

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manifest prejudice of other creditors who have had the greatest share and interest in such bankrupts' estates, and the said bankrupts thereupon, despairing of any good accommodation with their creditors, have withdrawn themselves out of their reach, or consumed in prison the greatest part of their estates, which otherwise by a reasonable composition, would have been disposed of amongst their creditors; for remedy therefore of such and other inconveniencies not yet provided for by former laws: Be it Enacted, etc., That where any person now living is, or any other person, which at any time hereafter shall, become a bankrupt, so many of the creditors of such bankrupt and of their executors, administrators, guardians or trustees, whose debts together shall amount unto two-third parts in value or more of all the debts owing by such bankrupt, may, as well on behalf of themselves as of all others the creditors of such bankrupt, make agreements and compositions with such bankrupt, his or her heirs, executors or administrators, for and concerning satisfaction of all the debts due from such bankrupt, and that such agreements and compositions, so to be made, being put in writing and subscribed and sealed by the persons making the same, or by any other thereunto lawfully authorized, shall be good, available and binding to and conclude all the creditors of such bankrupt as fully and effectually as if all such creditors had actually made, subscribed and sealed such agreements and compositions, the infancy or other disability or the disagreement of any of the said creditors, or of any other person or persons, who are or shall be entrusted for any of them, notwithstanding; and no executors or administrators, trustees or guardians of any of the creditors of such bankrupt shall be charged or chargeable with any wasting or breach of trust for or by reason of his or their making or joining in or accepting of such agreements or compositions as aforesaid; but that all such persons in respect of such compounded debts shall be charged and chargeable only with so much as they shall respectively have and receive by such agreements and compositions and no more, any former law to the contrary in any wise notwithstanding.

And for the preventing of frauds in such agreements or compositions; Be it further enacted by the authority aforesaid, That if any of the creditors of such bankrupts, or of their executors, or administrators, guardians or trustees, by or for whom any such agreement or composition shall be subscribed, shall be suspected to have committed any frauds therein, then and in such case every such person so suspected shall, if required by the major part in value of all the creditors of such bankrupt, within ten days after notice given of such request unto him or her in writing, make oath before the Commissioners authorized to execute the Commission against such bankrupt, or before some other person to be deputed by the said Commissioners, or before a Master in Chancery, ordinary or extraordinary, which oath the said Commissioners and other person so to be deputed by them, and such Master in Chancery as aforesaid are hereby empowered to administer, that the debt or debts by him or her claimed upon such agreement or composition was or were justly due and owing from such bankrupt before the time that he or she became bankrupt; and upon what account and for what consideration such debts became due, and that neither he or she nor any other person or persons whatsoever by his or her order or to his or her knowledge hath or have at any time since the said bankruptcy had or received, or is or are to have or receive, directly or indirectly, any more money or any greater or further

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advantage, gratuity, reward or security for or in consideration of the said debt or debts, or for his or her making or joining in such agreement or composition, than what is or shall be expressly mentioned in such agreement or composition; and in case any such suspected person shall, after such request made to him or her as aforesaid, refuse to make such declaration upon oath in writing within the time above limited, then and in every such case every such person so refusing shall forfeit the whole debt or debts by him or her claimed of or from such bankrupt, or out of his or her estate, and the same shall be divided and distributed to and amongst all the other creditors of such bankrupt in proportion to their respective debts.

And be it further enacted by the authority aforesaid, That if any of the creditors of such bankrupt, their executors or administrators, or any guardian or trustee of or for such creditors, shall refuse to accept of and comply with such agreements and compositions, then upon bringing into the High Court of Chancery the money or other things, which by such agreement or composition, or to be paid or delivered to such dissenting creditor or creditors, his or their executors or administrators, or to his or their guardian or trustee, to his and their use, and notice thereof given to them in writing, or showing to the said Court the performance of such agreement or composition, such bankrupt, his or her heirs, executors or administrators, and his, her and their estates shall be absolutely discharged of and from such debts so agreed or compounded for; and the said High Court of Chancery shall and may compel such dissenting creditors and other persons to deliver up to such bankrupt, his or her heirs, executors or administrators, all writings and securities whatsoever that are or shall be in their hands or power belonging or relating to such bankrupt, or any debts due from him; and if any bankrupt, his or her heirs executors or administrators, with whom any agreement or composition shall be made by virtue of this Act, shall afterwards be arrested or detained in prison at the suit of any of his, her or their creditors, contrary to the true intent and meaning of such agreement or composition, then and in every such case it shall and may be lawful to and for any of the Justices of their Majesties' Courts of King's Bench or Common Pleas, or any of the Barons of their Majesties' Court of Exchequer for the time being, to issue forth his or their warrant or warrants, or their Majesties' Writ of Habeas Corpus, to bring before him or any of them such bankrupt, his or her heirs, executors or administrators, so arrested or detained in prison as aforesaid, and upon proving upon oath such agreement or composition to the satisfaction of such Justice or Baron, who are hereby empowered to administer the same, such Justice or Baron shall and may discharge out of custody all and every such person and persons from their respective arrests and imprisonments upon common bail, without paying any fees or charges for or by reason of such arrests, and in such case every such person so arrested shall and may plead the general issue and give this present Act and such agreement or composition in evidence and have his costs.

And whereas the assignees of bankrupts' estates have no power to compound the debts due and owing by insolvent debtors to such bankrupts, by reason whereof such debts are often-times lost; Be it further enacted by the authority aforesaid, That it shall and may be lawful for such assignees, by and with the consent of two-thirds in value of the creditors of such bankrupts, who have sought or shall seek relief by the Commissioners against such bankrupts, to make such agreements or

compositions as they shall think fit for such debts as they shall conceive to be desperate; and upon performance of such agreements or compositions as they shall make for the same, shall and may discharge the said debts so agreed or compounded for, and shall be chargeable and accountable in respect thereof for no more than they shall actually receive for the same; and in case such two-thirds in value of the creditors seeking relief as aforesaid shall find it necessary or convenient to lay out any money for the redemption of any mortgage, or for improving or repairing the estates belonging to such bankrupts, or for any other occasion, which they shall judge to be for the benefit of the creditors of such bankrupts, the aforesaid assignees, by and with the consent of such two-thirds of the creditors seeking relief as aforesaid, shall and may at any time before an actual distribution made of such bankrupts' whole estates, by writing under their hands and seals direct and appoint any money that is or shall be in their hands or power, to be laid out and expended for any the purposes aforesaid in such manner as they shall think fit.

And whereas many times such assignees of bankrupts' estates appointed by Commissioners of Bankruptcy are weary of the trouble of gathering in and managing the same, and great part of such estates have been lost by their negligence or refusal to recover it; Be it further enacted by the authority aforesaid, That such assignees, and the survivors and survivor of them, and the heirs, executors or administrators of such survivor, shall and may at any time transfer such part of the bankrupts' estate, which hath been or shall be assigned to them by the Commissioners as aforesaid, and as shall then remain unreceived or unrecovered, to such person or persons whom the said Commissioners, or the two-thirds in value of all the creditors shall appoint, and from and after such transferring shall be discharged of the said estate so transferred, and such person or persons to whom the same shall be transferred, his or their heirs, executors or administrators, shall and may sue for, recover and receive, in his and their own name or names, such part of the estate as shall be so transferred as fully and effectually as the first assignees of the Commissioners might have sued for, recovered and received the same.

And be it further enacted by the authority aforesaid, That all and every person and persons who have lent or shall lend any money, or have sold and delivered, or shall sell and deliver any goods or merchandizes to any bankrupt after his or her bankruptcy, not knowing him or her to be bankrupt at the time of such payment or delivery, and making oath thereof as aforesaid, shall and ought to be admitted as creditors to have the benefit of any Commission sued or to be sued out against such bankrupt, in like manner and proportion with any other creditors of such bankrupt; and where any person is or shall be both a debtor and creditor of and to any bankrupt, by reason of dealings on any account current or open account betwixt them, or otherwise, such person shall be accounted debtor or creditor of such bankrupt for no more than what shall appear due by the balance of an account of debit and credit to be made up of their respective demands.

And be it further enacted by the authority aforesaid, That where any creditor or creditors of a bankrupt are or shall be debtor or debtors to their Majesties, their heirs or successors, and shall procure any extent or other process in aid to be sued out for levying the money due from such bankrupt, such creditor or creditors shall not levy of the bankrupt's estate, by virtue of such extent or other process, any more money than will pay the debt due to their Majesties, their heirs or

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Provided always and be it further enacted by the authority aforesaid, that if any creditor or creditors of a bankrupt, who at any time heretofore hath or have got, or shall hereafter get into his, her or their hands, custody or power, or into the hands, custody or power of any other person or persons, by his, her or their order, any deeds, writings, papers or books of accounts belonging to such bankrupt, or concerning his or her estate, shall wilfully conceal, obliterate or cancel the same or any of them, and shall not, if required by the Commissioners authorised to execute the Commission against such bankrupt, or by the two-thirds in value of the creditors seeking relief by such Commission, forthwith produce the same and every part thereof and all accounts kept by him, her or themselves, relating to his, her or their dealings with such bankrupt, before the said Commissioners upon oath (which oath the said Commissioners are hereby empowered to administer) that such deeds, writings, papers or books of accounts or any of them have not been wilfully defaced, altered, obliterated or torn by him, her or them, the said creditor or creditors, or by any other person or persons by his, her or their order, privity or consent, with intent to defraud the said bankrupt or any other of his or her creditors, all such creditors so offending shall lose all the debts due to him, her or them from such bankrupt, and be for ever debarred from recovering the same or any part thereof from such bankrupt, or his or her estate and from all and every other person and persons bound or obliged with such bankrupt for the payment thereof.

Provided also and be it further enacted by the authority aforesaid, That no distribution shall be made of such bankrupt's estates to any of their creditors upon any agreements or compositions to be made by virtue of this Act, until the charges of obtaining and executing the Commissions against such bankrupts shall be first paid or satisfied to such person or persons by whom the same is or shall be disbursed.

Provided always and be it enacted that the bankrupt, before any composition be agreed to, do lay before his creditors his books of accounts and a true inventory of his whole estate, both real and personal, upon oath made before a Master in Chancery, and that in case it doth appear, after the composition be agreed to, that the said bankrupt hath concealed from his creditors any part of his estate, that then the composition shall be void and of none effect. *Parchment Collection.* [Brought from the Commons this day; read 1ª on 13 March (L. J., XV. 384, 392). On the 19th the Bill was read 2ª; after debate, Question for committing Bill negatived and Question for rejecting Bill affirmed (MS. Min.; L. J., XV. 398).].

816. March 6. Harnage *v.* Hudson. — Petition and Appeal of Richard Harnage, Jaques Wiseman, John Singleton, George How, Dame Allen, Joseph Devonish, John Prigg, Richard Sutton, James Paulett, William Smith, William Blinchorne and Peter Essington, creditors of Allen Bellingham, Esq., deceased. Appellants having brought a Bill in Chancery, on behalf of themselves and the remaining

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creditors of the late Allen Bellingham, against his trustees for sale of the timber on his trust estate in payment of their debts, obtained a decree, and the timber was valued at 2,300*l.* James Graham, who had purchased the estate, refusing to buy the timber at that price, Appellants, with the acquiescence of the other Creditors, agreed to do so towards payment of their debts. The sale, however, being obstructed by the claims of tenants and others, five of the scheduled creditors, viz^{t}., Hudson, Molineux, Hart, Rigby and Davis, whose debts amounted only to 390*l.* 9*s.* 6*d.*, together with the trustees and William, the brother of Allen Bellingham, obtained an Order on 23 Nov. last for Appellants to bring the 2,300*l.* into Court, for non-compliance with which Harnage and Wiseman were ordered on 24 Feb. last to stand committed to the Fleet, and the remaining Appellants were prosecuted for contempt, although not more than 700*l.* worth of the timber could yet be sold, and Appellants, who proved debts before the Master amounting with six years' interest to about 1,500*l.*, made an offer, which was refused, to bring into Court the balance between that sum and the 2,300*l.* Pray that the Orders may be reversed, and the Respondents ordered to answer. *Signed* by Appellants; *Countersigned* by Tho. Boycott and Will^{m}. Adams, who certify separately that it is a proper case to come before the House. L.J., XV. 385. [The Cause was heard and the Appeal dismissed on 19 March, after hearing *Sir Bartholomew Shore* and *Mr. Jennings* for the Appellants, and *Sir William Rawlinson* for the Respondents. Counsel who signed the Appeal were then ordered to attend the next day. (MS. Min.; L.J., XV. 397.) Nothing further recorded.]

Annexed:—

(*a*) 13 March 1693–4. Answer of William Bellingham, Esq., brother and heir and executor of Allen Bellingham, Esq., deceased, Charles Pidgeon, Esq., and Robert Hilton, Gent., trustees of the said Allen Bellingham, and William Hudson, Francis Molyneux, William Hart, Richard Rigby and Jeremiah Davis, five of the creditors of the said Allen Bellingham. The late Allen Bellingham in 1686, being much indebted, conveyed the manor of Levens and other lands in Westmoreland to his brother and Pidgeon and Hilton in trust to pay his debts, and dispose of the residue as he should appoint, and by a further deed in 1688 he and the trustees conveyed the whole of his estate on the like trust to Pidgeon and Hilton, who, together with Allen, then sold the Westmoreland Estate to James Grahme for 24,200*l.*, excepting the timber upon Barrowfield, Underbarrow, Staveley, Steddale, Strickland and Melkinthorpe, which was referred for valuation to Sir George Fletcher, Bart., and Thos. Shepherd, with an umpire if necessary, the proceeds of sale to go to paying off debts and incumbrances on the premises, and the surplus to be applied as Allen should appoint. Allen, being importuned by his creditors, and being an officer and ordered abroad, gave them bonds cautionary to secure what should be found justly due, and afterwards by deed of appointment directed the trustees to examine their accounts and claims, and to pay (if found due) 320*l.* to one Oliver Quantin *alias* Pittore and 223*l.* to the Respondent Molineux, and also the debts of scheduled creditors, of whom Appellants are only 12. The referees failing to value the timber, the creditors (Appellants and Respondents) brought a Bill in Chancery in 1690 against the trustees, and the Court on 27 May 1691 ordered the latter to account and pay the surplus,

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after payment of preferable debts and charges, to the Plaintiffs, who were to prove their debts before a Master. The Master, after a Commission, reported the timber to be worth 2,300*l.*, and the Appellants, having agreed to accept that price, which Grahme, who had the right of preemption, declined to pay, entered as absolute purchasers, and time was given them to dispose of the timber. After 18 months delay, on 23 Nov. last they were ordered to bring the 2,300*l.* into Court, or in default be prosecuted, and on 24 Feb., Appellants having *failed* to prove their debts or pay the money, it was ordered that Harnage and Wiseman should be committed. Appellants thereupon moved the Court on 2 March against this Order, pretending to have proved debts to the amount of 1,100*l.* with interest, and produced a Report made *ex parte* by the Master, which the Court rejected as irregular, Appellants not having proved their debts but only their cautionary bonds. The five Respondent creditors never accepted the timber at the said price, but insist on payment of their debts in full. None of the Respondents obstructed the sale, and if the tenants did so, it must have been because the Appellants trespassed or claimed what was not theirs. As to the trustees, the trust is liable to certain debts and incumbrances still unpaid, which are preferable to the debts of the Appellants, and Molineux's debt takes priority by the deed of appointment. Appellants have never yet proved their debts, and being only 12 out of 48 creditors, have no right to deduct their pretended claims contrary to the tenor of the trust. Pray that the Appeal may be dismissed with costs. *Signed* by Respondents; *Countersigned* by W^m^. Marriott. *Endorsed* as brought in this day.

817. March 7. Mutiny Act.—Engrossed Proviso, marked A., enabling any soldier complaining of an officer, paymaster, clerk or agent of the regiment for detaining his pay, to appeal to the Privy Council in England or Ireland, in the event of such officer's acquittal. C. J., XI. 119 *In extenso.*

[Agreed to be left out this day (L. J., XV. 387). The Bill was brought from the Commons and read 1^a^ on 28 Feb. (*Ib.* 380, 381). In C.W.H. on 1 March, E. Nottingham in the Chair, the Clause, forming Sect. 2 of the Act, was amended by empowering Petty Constables to give certificates of the free consent of persons listed; and, on Report, a Select Committee was appointed, with the Attorney-General to assist, to draw a Clause upon the debate (MS. Min.; L. J., XV. 382).—On 2 March the *Lord Steward* reported from the Select Committee* that they had found difficulty in the case, and had not come to any conclusion. House put again into Committee. A Clause read from 13 Car. II. c. 9 for ordering the Fleet. *Moved*, that the Judges and the Attorney-General draw a Clause upon the debate. *Moved*, that the King and Council inspect whether the soldiers have their pay. Whether, in case any officer be accused by a soldier of detaining his pay from him, and the officer be acquitted, that then the soldier may appeal to the King and Council in England or Ireland. *Agreed*, that the Judges and the Attorney-General draw a Clause to this purpose. *Moved*, that E. Nottingham have leave to leave the Chair upon urgent affairs of his own. *Agreed to. L. Stamford* took the Chair in his place. *The Judges* and the *Attorney-General* brought in the Clause (being the above Proviso) as drawn by them, which was read and ordered to be

* Their proceedings are not recorded in Com. Book.

1693-4.

No. 817.

added at the end of the Bill. House resumed. On report, Amendments and Proviso, agreed to (MS. Min.; L. J., XV. 383).—3 March. Bill read 3ª. Two further amendments made at the Table.* Bill passed, as amended, and sent to the Commons. (MS. Min.; L. J., XV. 384).—The Commons having disagreed by 115 to 101 to the Amendment adding Petty Constables, and also to the Proviso (C. J., XI. 119), a Conference was had on 6 March, on report of which the next day the Lords agreed to leave out the Proviso, but to insist on the other Amendment, and appointed a Committee to prepare reasons. (L. J., XV. 386–88). An Order reviving this Committee appears in MS. Min. of 22 March but not in L. J. On 27 March the Committee was revived, with 5 additional Peers. (MS. Min.; L. J., XV. 405), and they reported their Reasons for insisting, on the 29th (Com. Book; L. J., XV. 406), on which day, after a second Conference, the Commons decided by 89 to 84 not to insist on their disagreement (C. J., XI. 144; L. J., XV. 408), and the Bill received the Royal Assent on 16 April (L. J., XV. 417), 5 & 6 W. & M. c. 15].

818. March 13. Iron, &c., Exportation Act.—Petition of the Braziers and Founders of England, on behalf of themselves and multitudes of others working in brass, copper and iron. The Bill for repealing divers Statutes prohibiting the exportation of iron, copper and bell-metal is likely to be of most pernicious consequence to their Majesties and, in particular, to Petitioners. Pray to be heard by Counsel against it. *Signed* by Morgan Atkinson and 24 others. L. J., XV. 392. [The Bill was brought from the Commons and read 1ª this day, and Petitioners were ordered to be heard before the second reading. (*Ib.*) On 21 March, Counsel were accordingly called in. *Sir Thomas Powys* (for Petitioners): There are many thousands concerned in this case. Recites the several trades. We have witnesses to make out these facts. They allow there several copper mills now which were not formerly is allowed (*sic*) by the Counsel on the other side. *Peter Essington* sworn. *Samuel Davis* sworn and heard in this case [as to] how many copper mills there are and how many there are employed in them. There is a brass-work now set up in England also. *Mr. Dodd* (for the Bill): The argument they use is strong against the other side. As for bell-metal there is ten times as much as there is use for. *Mr. Filmer* (for the Bill) is heard. *Sir Thomas Powys* heard in reply. *John Southerne* (sworn): I am concerned in the Welsh and Derbyshire stock. We have 40 or 50 loads (?). The braziers will take this at their price. *Samuel Cudworth* (sworn) is heard. *John Forster* (sworn): I have some shares in the Patent stock. I believe the manufacture of England could not take up all you make. Harness work 50 tun (?) a year. Sword-hilts (?) 10 tun (?) a year. Counsel withdrew, and the *L. Keeper* reported. Bill read 2ª and committed to C.W.H. (MS. Min.; L. J., XV. 399).—On 24 March, in C.W.H., Bishop of Salisbury in the Chair, the Bill was read through. *Counsel* called in on the Braziers' Petition of 22 March,† and told they are to speak to any alteration or amendment. *Sir Thomas Powys* (for Petitioners): I propose it be not exported unless wrought, and unless it be at a certain low price. That there is no manner of liberty to export bell-metal or shruff, and about 300,000*l.* will buy up all that. That there be a proviso to except shruff. When rose copper is wrought up, and that shall not exceed 100lb., they are not averse to the exportation

* One of these was a verbal one, to leave out ("of").

† Annex (*a*).

1693–4. — No. 818. of it. *The Braziers* were heard themselves: The rose copper is when once it is melted. There is sayes (*sic*) for all metals, as well as for silver and gold. We are able to guess at it by the breaking of the grain. *Mr. Dodd* (for the Bill): As for bell-metal, we meant (?) a mundick metal, and the pot and shruff. I propose a proviso that to (*sic*) no shruff nor pot ore shall be exported. *Sir Thomas Powys*: There is nothing now but as to the price of 100lb. (?). Counsel withdrew, and the *Chairman* reported. The Committee then made the amendments given in C. J., XI. 139; which were agreed *to on report*, and the Bill was read 3ª, and passed and returned to the Commons (MS. Min.; L. J., XV. 403). It was returned from the Commons, with the amendments agreed to on 9 April (*Ib.* 412), and received the Royal Assent on the 16th (*Ib.* 417). 5–6 W. and M. c. 17, Fol. Ed.]

Annexed:—

(*a*) 22 March 1693–4. Petition of the Braziers and Founders of England, on behalf of themselves and multitudes of others working in brass and copper. The Bill, if passed without any restrictions, will enable the French King to be supplied with guns, and many thousands of poor tradesmen will starve for want of work, and none will have advantage but the present miners, who have undertaken more than they can perform. Pray to be heard by Counsel against the Bill. *Signed* by John Coggs and 5 others. *Endorsed* as read this day. L. J., XV. 400.

819. March 13. Rogers' Estate Bill.—Draft of an *Act to enable* Jane Rogers, widow, the relict and executrix *of the last will* and testament of Bryan Rogers, late of Falmouth, merchant, deceased, to sell lands for the payment of the debts and legacies of the said Bryan Rogers in performance of his will. After reciting the provisions of the Will of Bryan Rogers, as set out in the Preamble to the later Act 7 Will. III. c. 30, (cp. No. 874), the Bill goes on to state that the executors, finding the estate much encumbered, had renounced the executorship, and the widow, Jane Rogers, had alone proved the Will, and disposed of most of the personalty in paying the debts; but, as many thousands of pounds are still owing, mostly to the Crown, and the legacies are unpaid, which will not be covered by the personalty, and as the real estate cannot be sold, in view of the refusal of the executors to act, without an Act of Parliament, and as Peter Rogers, the heir-at-law, is an infant of about 10 years of age, and the widow, who brought her husband a considerable portion, would be left wholly destitute, she prays that it be enacted that the Executors be debarred from acting, and that she may be fully enabled, singly and by herself, to act in their stead, receive all debts, and sell all the property, except the tenement of Carillie or Carilly, in the parish of Wendron, part of the customary or Duchy estate holden of the manor of Helston in Kerrier in Cornwall, which is of small value and not intended to be sold. The money raised by Jane Rogers by the sale of the property is to go first in payment of the executorship charges, then in payment of the debts, then of the legacies, the overplus being invested in real property to be settled in accordance with the Will, and in providing for Peter's maintenance and education. Jane is further to have power to compound the bad debts. Then follows the General Saving Clause. [Read 1ª this day, but dropped after commitment. L. J., XV. 392–3. MS. Min. 16 and 19 March].

820. March 15. Small Tithes Recovery Bill.—Commons' Engrossment of an Act for the more easy recovery of small tithes. The

engrossment consists of 14 Clauses. It omits Section xiv of the Act of 1696 (7–8 W. & M. c. 6), and adds a Clause, No. 5, which is not in that Act, but which appeared in the previous Bill of 1691–2, with the substitution of forty shillings for twenty shillings (No. 511)., Clauses 3, 4, 12, 13 and 14 are the same *verbatim* as Sections iv, v, xii, xiii and xv of the Act, and the remaining 8 Clauses, viz^{t}. Nos. 1, 2 and 6–11, agree with the rest of the Act, except in certain particulars noted in connection with the Bill of 1691–2, and in the following further ones, where the Act omits the words in square brackets, and adds those in italics, viz^{t}. :— 1693–4. — No. 820.

Clause 2 (Sect. iii).

. . . the money arising by *such* sale as may satisfy . . .
. . . as the said [Justices] *Justice* shall think fit . . .

Clause 6 (Sect. vi).

. . . within the space of [three] *two* years next after . . .

Clause 7 (Sect. vii).

. . . if the [said] Justices . . .

Clause 8 (Sect. viii).

. . . in question *and* deliver the same in writing . . .

Clause 9 (Sect. ix).

. . . and satisfaction [made] by paying the same *sum* so adjudged.

Clause 11 (Sect. xi).

. . . first day of [May] *October which shall be* in the year of our Lord one thousand, six hundred, ninety [five] *six*.

Parchment Collection. [Brought from the Commons this day, and read 1^{a} on March 16 (L. J., XV. 394, 395). In C. W. H. on 26 March, Bishop of Salisbury in the chair, the Bill was read through and agreed to without amendment, as far as the Preamble and Title, a debate taking place on Clause 3, and a motion being made, but not pressed, on consideration of Clause 8, to add the words ("or Ecclesiastical Judge") throughout the Bill after ("Justices of Peace").* Progress was then reported. (MS. Min.; L. J., XV. 404).

On 31 March (same Chairman) the Preamble was read. A Clause to prevent concealment of small tithes was offered, but afterwards withdrawn. A Proviso excluding lay patrons from the benefit of the Act† was offered and after debate agreed to, the challenge being waived after Tellers had been named (viz^{t}. L. Granville for Contents and L. Cholmondeley for Not-Contents), for a Division on the question whether the Proviso shall be part of the Bill? *Proposed*, that instead of the Oath, there be persons to swear to the value of the small tithes. A Proviso‡ offered and agreed to. Preamble and Title agreed to. Bill reported with the Amendments. *Moved* that the Bill be re-committed. Debate adjourned till 3 April (MS. Min.; L. J., XV. 408).

3 April. Bill, after debate, re-committed to C. W. H. House in Committee accordingly, Bishop of London in the Chair. Clause 5 read.

* This amendment had been made by the Lords to the Bill of 1691–2, but was then disagreed to by the Commons.
† Proviso A. *See* Annex (*a*).
‡ Proviso B. *See* Annex (*b*).

1693–4. — No. 820. A Proviso, offered to be instead of it, read. After debate thereon, House resumed and progress reported. (MS. Min. ; L. J., XV. 409).

4 April. House again in Committee (on re-commitment). Clause 5 amended, as follows * :—

Provided also and be it enacted that no person or persons shall have any [other] suit or remedy for the recovery of any small tithes, offerings, oblations, obventions or compositions [than is given or provided] by this Act, [unless] *if* the title be concerned, or *if* the value of the tithes demanded of any one person in any one year shall exceed the value of twenty shillings."

Clause 11 (Sect. xi of Act) amended by adding ("*by this Act*") after ("remedy").

A Proviso offered, relative to the proceedings in the Ecclesiastical Courts, and agreed to.

House resumed. Bill reported with the Amendments, which were agreed to, except the last-named Proviso, which was laid aside. Bill read 3ª and passed and sent to the Commons. (M.S. Min ; L. J., XV. 410).

The Commons on 7 April agreed to Proviso B, but disagreed to Proviso A and to the other Amendments in Clauses 5 and 11. (C. J., XI. 152, 153). A Conference was had on 16 April (L. J., XV. 417), and on the 18th the Archbishop of Canterbury reported the Commons' reasons for disagreement (*Ib.* 419), which report was ordered to be further considered on the 21st (*Ib.* 420). No further proceedings, and the Bill accordingly dropped.]

Annexed.

(*a*) 31 March. Engrossment of Proviso A. C. J., XI. 152. *In extenso.* [Added in Committee this day, and disagreed to by the Commons. *See* Notes above.]

(*b*) 31 March. Engrossment of Proviso B. C. J., XI. 152–3. *In extenso.* [Added in Committee this day, and agreed to by the Commons. *See* Notes above.]

821. March 16.—Saltpetre Importation Act.—Petition of the Governor and Company of Merchants of London trading into the East Indies. The Bill for importing saltpetre is contrary to the Act of Navigation. Petitioners are obliged by their late charter to furnish their Majesties with 500 tons of saltpetre annually at 38/6 per ton in time of peace and 45/ per ton in time of war, for which they have made provision in India and have at present upwards of 100 tons in their warehouses ready to deliver, and have also certain intelligence of one of their ships being on her way from Barbadoes and daily expected, on board of which they have good assurance there are 200 or 300 tons of saltpetre, and that there were four other ships daily expected at Barbadoes on their return from India, by which they hope to receive about 1,000 tons of saltpetre, which is sufficient to serve their Majesties and all other occasions. Pray to be heard by counsel against the Bill, which will greatly prejudice Petitioners and only tend to the advantage of the Dutch and of some private persons, and that, if their Lordships should allow the importation of saltpetre, leave for so doing may be given only to Petitioners, who will give good security to supply their Majesties at the prices mentioned above or in the Bill. *Signed* Tho. Cooke, Governor ; *Endorsed* as read this day. L. J., XV. 395. [The Bill, which allowed the importation of saltpetre for one year, was brought from the Commons on 15 March (*Ib.* 394).—

* The omissions are shown by square brackets and the additions by italics.

1693-4. — No. 821.

On 23 March, Counsel for Petitioners were called in. *Mr. Northey* (for Petitioners) is heard against the Bill. *Mr. Dodd* (for Petitioners): "We have letters that the *Berkeley Castle* is arrived in Ireland." This was controverted. *Francis Thompson*, *Thomas Woolley*, *Robert Norks*, *Lawrence Jackson*, and *Richard Lechmere* sworn for the Company, Counsel withdrew. A debate arose whether Counsel should be further heard this day. *Agreed to*, and Counsel called in again. The *Lord Keeper* told them that the Lords would have them apply themselves to shew why the other side should not be allowed till tomorrow for making out the arrival of the *Berkeley Castle*. *Sir Thomas Powys* (for the Bill) says he does not oppose their having time until tomorrow for that purpose. Counsel withdrew. *Moved* that the Officers of the Ordnance bring in an account of what store of powder and saltpetre they have. *Ordered* as in L. J., XV. 403. (MS. Min).—30 March. Counsel called in. *Counsel* for Petitioners were told that they were to proceed, and not to repeat anything. *Mr. Northey:* We were deceived in what we offered to make out concerning the *Berkeley Castle*. The reason for the Bill was the necessity of saltpetre to supply his Majesty. We expect 4 ships. *Mr. Dodd* (for Petitioners): We will undertake to supply his Majesty either with saltpetre or powder. We have given L. Sidney an account of what we have. We have given orders for 2,000 tons with the ships that are to come. Our order was given in May, 1691, so that now we have reason to expect 1,000 tons. *Thomas Woolley* (sworn) offers to read an Abstract upon Oath of Letters in the Books. Counsel withdrew. *Moved*, that the Books be brought. Counsel called in again, and Counsel for the Bill told to proceed. *Sir Thomas Powys* (for the Bill): We desire to represent it as a Bill beneficial to the public. The Bill is but for one year, and in that time it may be seen to be good or bad. At present there are not more than 70 tons in the Stores. The E. I. Company do not pretend to more than 100 tons. There are several trades take up 300 ton every year. I have mentioned a quantity that uses 2,000 tons every year, if they could have it. They have brought saltpetre from 40*l.* or 50*l.* a ton to 160*l.*, and now they have lowered it to 120*l.*; but if this Bill does not pass, it will be 200*l.* per ton. The King has paid 10*l.* per barrel for his Plantations, because we cannot transport it. We have been forced to buy powder from the Dutch. Glass is become double the price it was, for want of saltpetre. *Sir Bartholomew Shore* (for the Bill): They have agreed, say they in their Petition, for 200 ton. That not half the King has occasion for. Between 2,000 and 3,000 ton a year is necessary during the War. *Ralph Broome* (sworn). When saltpetre was cheaper, we used 80 or 90 ton in a year, and there are divers other mills, and there are 8 or 10 times as many mills as his, and they work as much as my master. This is not for the King's service, but private concerns. *William Walton* (sworn): I refine all the brimstone, and we served 70 or 80 ton of brimstone, and that will work up many hundred ton of saltpetre. A hundred-weight of powder is dearer than the saltpetre. *Mr. Floyer*, a Refiner (sworn) is heard as to the quantity of saltpetre used. We bought it at 45*l.* per ton, and now we give 160*l.* I bought some at 130*l.* I send silver to Holland to be parted. Counsel withdrew. Bill read 2ª. Then *Visct. Sidney*, Master of the Ordnance, was heard, and says he received two Affidavits from the E. I. Company, which were sworn before the Lord Mayor. The Company had no account of the *Berkeley Castle*. He does not know

1693–4. — No. 821. of any saltpetre in the Kingdom. I have enquired what was in the King's stores, which is short of what it should be. We spend every year in our office 800 ton, and if there be any action at sea, I know not how to supply then. We make 20,000 barrels of powder. All our officers agree this is a good Bill, and much for their Majesties' service. *Ordered* that the Bill be committed. (MS. Min.; L. J., XV. 407). On 2 April, in C. W. H., a Proviso for the sale of Saltpetre at a reasonable rate was offered but after debate laid aside; and the Bill was reported without amendment (MS. Min.; L. J., XV. 408). It received the Royal Assent on the 16th (*Ib.* 417.). 5–6 W. & M. c. 16. Fol. Ed.]

822. March 17.—Orphans &c. of London Relief Act.—Petition of divers Merchants in and about the City of London. The new duty, imposed by the Bill, of 4*d.* per tun laid on all wines imported, passed the Commons on the suggestion that it was consented to by Petitioners, who, in fact, were ignorant of it, and are sensible it will be a particular tax upon them only, and a very great burden and oppression, contrary to the design of the Bill. Pray to be heard against the duty. *Signed* Sam. Shepheard, John Bellamy, Fred. Gronen, Thom. Morice, Nath. Maxey, James Bateman, Matt. Kenrick, Abraham Beake, Tho. Dade, Chr. Albert, Pet. Baldwin and William Raphe. *Endorsed* as read this day. L. J., XV. 396. [The Bill was brought from the Commons and read 1ª on 12th March (*Ib.* 391).—On the 20th in C. W. H. (Bishop of Salisbury in the Chair) Counsel were called in on the above Petition. *Mr. Filmer* (*for Petitioners*): The Merchants are about 40 in number. This duty is to be collected by an Officer appointed by the Lord Mayor. This will discourage trade. *Sir Thomas Powys* (for the Orphans) is heard against the Petition. These are but 12 in number. *Mr. Filmer* heard in reply. Counsel withdrew. *Ordered* that the Petition be rejected. Counsel called in again on the Petition of Hutchinson and Moore* (*Sir William Rawlinson* (for Petitioners) opens the case. I am not against any part of the Bill, but for explaining some part of the Clauses concerning the Convex Lights. The question is, to whom the surplus of the profits of these lights shall go, after the 600*l.* a year paid. In the (*illegible*) of the House of Commons it is to go to the Patentees. *Sir Bartholomew Shore* (for the City of London) is heard. *Sir W. Rawlinson* heard in reply. Counsel withdrew. Counsel called in again on the Petition of John Reeve.† *Moved* that the House be resumed, and a report made of what is done upon the Petitions. After debate, *Question* put, whether the House shall be now resumed. Resolved in the *Negative*. Bill read by paragraphs. After a debate on the Clause in Skin 3, Line 10, Counsel were called in again and told that if there is anything further that is new, they are to proceed, and speak to Mr. Hutchinson's first invention of these Lights. Then *Sir William Rawlinson* produced witnesses. It was hinted at the Bar that there is likely to be an agreement between Hutchinson and the others. Counsel withdrew. House resumed, and progress reported, &c. (MS. Min.: L. J., XV. 398).—On 21 March C. W. H. resumed (Bishop of Salisbury in the Chair). The Clause on Skin 3, Line 1 read and agreed to. House resumed. Bill reported without amendment, and read 3ª and passed. (MS. Min.; L. J., XV. 399.). Royal Assent 23 March, 5–6 W. & M. c. 10. Fol. Ed.]

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* Annex (*a.*)

† Annex (*b*).

Annexed :— 1693–4.

(*a*) 17 March 1693–4.—Petition of Samuel Hutchinson and Arthur Moore, Gentlemen. Hutchinson was the first inventor of the Convex lights, and took a Patent in the name of Windus for the sole use thereof for 14 years, of which several are yet to come, which was in trust for Petitioner and assigned to him, and Moore is a purchaser from Hutchinson of $\frac{4}{32}$ parts of the profits of the invention, which can be considerably improved by Hutchinson. The Bill enacts that the City shall grant to Sir Charles Hara, Knt., John Stanyon, Philip Neve, and John Lilly, and all other persons concerned in the lights, a lease or license for their sole use in the City for 21 years from 24 June next, at a rent of 600*l.* to be applied to the debt due to the orphans. By a proviso in the Bill Petitioners are divested of their present legal right to the benefit of the Patent for the remaining term, and of their equity to any further term, except on conditions both unreasonable and destructive to their interests, and for the benefit of persons who are neither inventors, nor patentees, nor capable of improving the Art, nor otherwise interested than as remote assignees of some who might have an equity to some shares under the first inventor. Petitioners do not oppose the additional term subject to the payment of the 600*l.* a-year to the orphans, but desire not to be prejudiced in their rights. Pray to be heard by Counsel. *Endorsed* as read this day. [On 19 March seven persons appear as having been sworn as witnesses for the Petition, and on 20 March five for the Bill. (MS. Min.)] L. J., XV. 396. — No. 822.

(*b*) 17 March.—Petition of John Reeve. Edward Windus having obtained a Patent from Charles II. for the sole making of convex lights, assigned it to Samuel Hutchinson, Gent., who for valuable consideration either assigned, or agreed to assign, a fourth part thereof to Richard Reeve, Gent., Petitioner's late father, who again assigned his interest to Petitioner, then an infant, to whom Hutchinson was ordered by a decree in Chancery of 3 March 1685, to assign the said fourth part. Petitioner, on coming of age, assigned to John Lilly, Gent., for valuable consideration, a moiety of his four parts, the whole to be divided into 32 parts, and Hutchinson's assignment to Petitioner's father was then delivered to Mr. Lilly, to be kept for his benefit and that of Petitioner, who was still entitled to four other shares out of the thirty-two. Petitioner is informed that the Bill empowers the City of London to demise to the persons therein named, and all others concerned and interested in the said lights, a license for the sole use of all public lights in the City for 21 years at the rent of 600*l.* a-year. Petitioner does not oppose this, but there is a proviso which is very prejudicial to his interests. Prays to be heard by Counsel, and that Lilly may attend with Hutchinson's assignment to his father and his father's endorsement thereon, and give Petitioner a copy, which he refuses to do. *Endorsed* as read this day. L. J., XV. 396.

(*c*) 2 April, 1694.—Petition of Samuel Hutchinson, Gent. Petitioner, on his way back from the House, after giving evidence before their Lordships, was arrested near Palace Yard at the instance of Francis Errington by one Armstrong, a bailiff, at the suit of Bridgett Blackman, widow. Prays to be discharged from custody. *Endorsed* as read this day, "and he discharged and

1693-4. Arm-strong attached." No entry in MS. Min. or L. J. (*See* No. 926).

No. 822. (*d*) Petition of Craven Howard, John Harrington, Hugh Marchant, and Huntley Bigg. In the clause for applying the aqueducts of the City towards paying the debt due to the orphans, provision is made for securing the rights of the Thames Waterworks in York Buildings and other waterworks to the proprietors thereof. Petitioners are the proprietors of certain ancient waterworks, called Marylebone Waterworks, which supply several parts of the town, and for which provision was formerly made in an Act for settling the Waterhouse of York Buildings. Petitioners, under Letters Patent from the Crown of 8th March instant, have the use of all the waters running down the common sewers within the Bills of Mortality, except only the common sewers in the City, and such waters as are vested by Act in the Lord Mayor and Corporation for driving mills, for the more convenient serving the town with Thames and other water for 99 years, at a reserved rent to the Crown. Pray that provision may be made for enjoying the waterworks granted by their Majesties, in like manner as is intended to be made for the Thames Waterworks in York Buildings. *Dated* 15 March 1693. [No endorsement, and no reference to this and next papers in MS. Min. or L. J.]

(*d*)[1] Clause desired to be inserted in the Bill to give effect to preceding Petition, viz[t.]: Provided always that nothing in this Act contained shall be construed or taken to hinder or obstruct the Hon. Craven Howard, Esq., John Harrington, Esq., Hugh Marchant, and Huntley Bigg, Gentlemen, their heirs, executors, administrators and assigns, in, for, or concerning their waterworks, commonly called or known by the name of Marylebone Waterworks, or their waterworks now erecting and carrying on, by virtue of their Majesties' Letters Patents under the Great Seal of England, bearing date at Westminster the eighth day of March in the sixth year of their Majesties' reign, given and granted to them the said Craven Howard, John Harrington, Hugh Marchant, and Huntley Bigg, their executors, administrators and assigns, for the more convenient serving of the town with Thames and other water, for the term of ninety and nine years at a reserved rent to the Crown, as in the said Letters Patents is mentioned, or the rents, perquisites, and profits of the said waterworks, or any of them, or from the taking, receiving, raising, or conveying of Thames water and other water, or the laying their pipes or branches in the streets; but that they, the said Craven Howard, John Harrington, Hugh Marchant, and Huntley Bigg, their heirs, executors, administrators and assigns, shall and may have, hold and enjoy all such right, title, estate, privileges and advantages whatsoever which they, their heirs, executors, administrators, or assigns, or any of them now lawfully have and claim, or at any time hereafter may, might, or ought lawfully to have, hold, claim and enjoy by virtue of their Majesties' said Letters Patents, or by any other lawful ways or means whatsoever, if this Act had never been made, anything herein contained to the contrary thereof in any wise notwithstanding; yet so as the said Craven Howard, John Harrington, Hugh Marchant, and Huntley Bigg, their heirs, executors, administrators, or assigns, shall not obstruct or hinder the City of London in the laying, repairing, or amending their pipes or

branches, nor do or cause to be done any prejudice or damage to the same. [Appended to preceding.] 1693–4. — No. 832.

(d^2) Copy Clause in the Act for the Thames Waterhouse in York Buildings (2 & 3 W. & M. c. 39 in Long Calendar), which secures the right of Marylebone Waterworks. [Appended to (d).]

(d^3) Copy Grant of Waterworks to Craven Howard and others by the Crown at a yearly rent of five marks. *Dated* 8 March, 6 W. & M. *Signed* Seymour. By writ of Privy Seal [Appended to (d).]

823. March 19. E. Monmouth's Privilege.—Petition of John Deverell. His deserting the Usher of the Black Rod, in whose custody he now is, was occasioned by his being subpœnaed as a witness at Northampton Assizes, and through his ignorance, but on his return he surrendered himself. Prays to be discharged. L. J., XV. 397. [Deverell and Horton were ordered on 19 Feb. to be attached for refusing to deliver a horse of E. Monmouth's, as ordered, to D. Somerset; evidence having been given at the Bar by *Samuel Shute* and *Richard Hill*; (MS. Min.; L. J., XV. 374.) Horton was brought to the Bar (on motion) on 8 March, and discharged with a reprimand (MS. Min.; L. J., XV. 388), and Deverell was similarly discharged this day. (MS. Min.; L. J., XV. 397.) Anthony Dagley, the Black Rod's messenger, being brought to the Bar on the 14th for suffering Deverell to escape, said, "Deverell made his escape from my house in St. Martin's Lane. He never went out, but I and another with him. He has been gone 10 days. Horton had no liberty, but when I was with him. I was at Cashorton [Carshalton] with him." Dagley was then reprimanded and told as follows: "You are charged not to suffer any for the future to go abroad, either with you or without you, and this you must take care to observe at your peril." (MS. Min.; L. J., XV. 392, 393).]

824. March 19. Bail (Special) Bill.—Commons' Engrossment of an Act for settling the method of taking Special Bails in the Court of King's Bench, and for the filing, entering and doggetting of all Special Bails in the several Courts of Law at Westminster.

Whereas by the course of practice in the Court of King's Bench at Westminster, persons who become Special Bail in actions between party and party are not bound in any certain sum of money to the Plaintiff or Plaintiffs in such actions, by reason whereof they are often charged with greater debts and damages than they expected, to their great surprise and utter ruin, For remedy whereof, be it enacted, etc., That from and after the 20th day of April, which shall be in the year of our Lord 1694, every Judge of the said Court of King's Bench, and every Commissioner appointed pursuant to an Act made in the fourth Session of this present Parliament, intituled an Act for taking special Bails in the Country upon actions and suits depending in the Courts of King's Bench, Common Pleas and Exchequer at Westminster, who shall take any special bail in any action or actions in the said Court between party and party, shall mention the sum in which the Defendant and Defendants, and also his, her or their surety or sureties, manucaptor or manucaptors, shall be respectively bound, in which defendants, sureties or manucaptors shall not hereafter be answerable or charged for or with any greater sum than they are so respectively bound in, any law, usage or practice to the contrary notwithstanding.

And to the end that all special bails may be public in all the Courts of law at Westminster, Be it further enacted by the authority aforesaid,

1893–4. — No. 824. That Every Judge of the said respective Courts, who shall have taken or received any special bails in any action or actions between party and party in the said respective Courts, shall, within fourteen days after such bails by the course of practice in the said Courts are become absolute, transmit the same to the proper officer in every of the said Courts, to be entered or filed therein; and that every officer of the said respective Courts, who hath the custody of any special bail, shall within fourteen days after such bails are become absolute, make a transcript thereof, and shall carry the same to the Officer in each of the said Courts, who by virtue of another Act made in the said Session of this present Parliament, intituled an Act for the better discovery of judgments in the Courts of King's Bench, Common Pleas and Exchequer at Westminster, who (*sic*) are directed to doggett the judgments in the said respective Courts, which said Officers are hereby respectively required to enter the same bails in the same books alphabetically and in the same manner as the said judgments are from term to term; and that every Defendant and Defendants giving such special bail, shall, over and above the usual fees thereof, pay the sum of eight pence, that is to say, four pence thereof to the Officer who is hereby directed to transmit the said transcript to the Clerk of the Doggetts or other Officer in the said respective Courts, and the other four pence to the said Clerk of the Doggetts or other Officer, for entering and doggetting the same. *Parchment Collection.* [Brought from the Commons this day, and read 1ª on the 23rd. (L. J., XV. 397, 401.) The House went into Committee on 14 April (E. Bridgewater in the Chair) but was resumed, without doing anything, and was ordered to meet again on the 16th. (MS. Min.; L. J., XV. 416). In C. W. H. on 16 April (E. Stamford in the Chair), the Preamble was postponed, after hearing *C. Justice Holt.* Clause 1 read. *L. C. Justice* (Common Pleas): In our Court the sum and action is certain. *L. C. Baron* says the same. A Clause out of 13 Car. II. c. 2, read. Clause 1 of Bill postponed. Clause 2 read and postponed. House resumed. Report made, and Committee put off for 14 days. (MS. Min.; L. J., XV. 417.) No further proceedings, and the Bill accordingly dropped.]

825. March 21. Salt-water Freshening (Walcot's Patent) Bill. Draft of an Act for making Salt-water fresh and useful. Substantially the same as the Act of 1694 (6–7 Will. III. c. 40, in Long Calendar), except in leaving blanks for the term of years and date of commencement of the term, and also for the penalty at the end of Sect. 1. *See* also No. **910.** [Read 1ª this day; to be read 2ª and parties to be heard on the 26th. (L. J., XV. 399.) No further proceedings.]

Annexed:—

(*a*) March 21. Breviate of the Bill.

826. March 23. King's Speech.—Draft of his Majesty's Speech delivered this day. L. J., XV. 402. *In extenso.*

827. March 23. Hicks *v.* Harris.—Petition and Appeal of John Hicks. John Martin, Esq., of Exeter, holding a lease determinable on the lives of John Watts and Katharine Hutt of certain fulling mills and houses holden of the Chamber of Exeter in 1685, died without issue and intestate, and letters of administration were granted to Elizabeth, his widow, and the lease was valued at 1,600*l.* Watts being about to go and live abroad, and Hutt being sickly, Elizabeth Martin, being unwilling to keep the lease, for fear the lives should fall, sold it in 1686 for 1,600*l.* to Petitioner, who paid her 500*l.* down, and gave a

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—
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bond to pay 500*l.* more the next January, and was to pay the remaining 600*l.* in June, 1687. Differences arising between Elizabeth and the other relatives of her husband, Petitioner mediated and composed them, and Elizabeth sold her right to the administration to the relations, (plaintiffs below), except such part as she had already sold, and the plaintiffs declared their satisfaction with the purchase. Petitioner, to preserve his estate, was obliged to purchase a third life, and entrusted Christopher Cook, one of the Chamber of Exeter, to treat for him; but Cook, by his interest in the Chamber, got the reversion in his own name, and, on Watts' return from abroad, the plaintiffs entered on the estate, and brought a Bill in Chancery to set aside the purchase, as unduly made and worth more than 1,600*l.* The Court on 8 July, 1691, confirmed the purchase, but ordered Petitioner to pay interest for the whole purchase money from Midsummer, 1686, deducting what had been paid and such rents as Plaintiffs had received since that date. The decree is erroneous, because Petitioner was not obliged to pay the second 500*l.* till January 1686 and the last 600*l.* till June 1687, and ought not to have been decreed to pay interest at all, but ought also to have had his costs of the suit. Appeals from the Decree, and prays that Elizabeth Harris, widow, Christopher Cook and Mary, his wife, John Watts, Richard Turner and Dorothy, his wife, Robert Meadows and Elizabeth, his wife, Elizabeth Martin and Katharine Hutt, Spinster, now Katharine Pyle, widow, may be ordered to answer. *Signed* by Appellant: *Countersigned* by Tho. Powys and Wm. Coade, L. J., X.V. 402. [The Cause was heard on 5 April. *Sir Thomas Powys* (for Appellant); The lease was offered to several for sale, and especially to two of the Respondents, who would not accept of it at the price. We think no interest at all ought to be given. The Decree is erroneous to allow interest beyond the time agreed. Here is the first 500*l.*, and the last 600*l.* One is to carry interest for a year, the other half a year before the agreements. We hope we ought not to pay interest, and to have our costs. *Sir Bartholomew Shore* (for Appellant): We were hindered from the enjoyment of our purchase by them, and yet we are to pay interest, though it was their fault. We could not be compellable to pay, but when due at law, and they come to set aside our purchase. We are purchasers upon a full and valuable consideration. We hope we shall be relieved, so as to have our costs, or not to pay any interest. They move to read the bonds on behalf of the Petitioner. Respondent's Counsel oppose the reading. They offer to read Mrs. Harris' Answer, which is opposed. The Decree is read, where the bonds are recited. The bonds are opposed to be read. They read Respondent's Answer in Chancery. We provided the other money, and borrowed 1,000*l.* of Mr. Boscawen. *Peter Battisell* read. *Mr. Northey* (for Respondent): They were never told of this by Mr. Hicks, and when the deed comes, she would not sign it, and then they were to look to Hicks. Mr. Hicks was rather a trustee than a purchaser. The Bill was not to avoid this purchase, but to make Mr. Hicks and her sign the deed, and in the Bill they alleged it was fraudulent. They prayed Mr. Hicks to give an account of rents received before he was a purchaser. On 8 July 1691 the cause was heard, upon which the Decree complained of was made. *Mr. Dodd* (for Respondent): Their pretence of a reversionary interest is quite out of the case, and not in the pleadings below, nor in the Appeal. Mr. Hicks was very fond of this Decree, and drew it up and enrolled it, because it confirmed his purchase. Then we pursued him and followed him. *Sir Thomas Powys* and *Sir Bartholomew Shore* were heard in reply.

1693–4. — No. 827. They read Hicks' answer. Counsel withdrew, and *L. Keeper* reported, and after debate, the Decree was reversed with directions. (MS. Min.; L. J., XV. 411).]

Annexed :—

(*a*). 23 March 1693–4. Reasons offered for receiving the Petition of Appeal, notwithstanding the Lords' order against receiving Appeals. The last order in Chancery, dated 24 Feb. last, was not served on Petitioner till the 9th inst., *though the* decree was made by the late Commissioners. The Appeal was lodged with Sir Thos. Powys immediately on service of the order, but he was unable to perfect it, being prevented from doing any business by the death of his wife. Petitioner does not design any delay. See *Memorandum* in L. J., XV. 403.

(*b*). 30 March. Joint and several answers of Elizabeth Harris, widow, Christopher Coke and Mary his wife, John Watts, Katherine Pyle, widow, Richard Turner and Dorothy, his wife, and Robert Meadows and Elizabeth his wife, coheirs and relations of John Martin, late of Exeter, Esq., deceased. The decree, made on hearing the Bill of the Respondents, (except Katherine Pyle), and the Bill of Elizabeth Martin, was just and equitable. Pray that the Appeal may be dismissed with costs. *Signed* by Respondents; *Countersigned* by Sam. Dodd and Ro. Blayney. *Endorsed* as brought in this day.

(*c*). 30 March. Petition of Respondents that Appellant *may* be ordered forthwith to give security for costs, and *that in default* thereof, the Appeal may be dismissed. *Signed* by John Watts and Richd. Turner, L. J., XV., 407.

828. March 28. Naturalisation (D'Offarrell and others) Act.— Amended Draft of an Act for naturalising Johanna D'Offarrell, an Infant, and her sister and two brothers. The Bill, as brought in, is to naturalise Johanna, Digna, Richard and Fergus D'Offarrell, Infants, aged respectively 9, 6, 4 and 1 years, children of Francis Fergus D'Offarrell, Esq., Colonel of a Regiment of Foot in their Majesties' Service, and a natural-born subject of their Majesties, and Elizabeth, his wife, *both professing the Protestant religion*, being, by reason of their father's constant service abroad, born in Holland. [Read 1ª this day (L. J., XV. 405); amended in Committee 30 March by adding the words printed above in italics, (Com. Book). Returned from the Commons, with the addition of 8 names (Annex (*a*) below) on 19 April (L. J., XV. 421). On 21 April, Counsel was called in on the Petition of R. Peirce (Annex (*b*) below) against the Commons' Amendments. *Sir Bartholomew Shore* (for Petitioner): We pray these gentlemen may be still subject to the same duties, as if they were not naturalised. This man is undone, if these men be naturalised, and put in as amendments at the House of Commons. They will colour others' as well as their own impositions. *Sir Thomas Powys* (for the persons added to the Bill): These are fit aliens, if not to receive the advantages of home-born. In the City of London he is a foreigner. No bill of naturalisation had ever such a clog. Counsel withdrew, and the Petition was dismissed. Commons' Amendments agreed to, and Bill read 3ª and passed (MS. Min.; L. J., XV. 422). Royal Assent 25 April (L. J., XV. 426), 5–6 W. & M. c. 47 in Long Calendar)].

Annexed :—

(*a*) 19 April 1694. Papers (numbered 1 to 6) giving the names parentage and birthplace of the 8 persons added by the Commons

to the Bill (C. J., XI. 167 *In extenso*), together with certificates, appended to the several papers, of their having received the Sacrament. The names are as follows :—

1. Abel Tassin d'Allonne.*
2. Frederick Weyhman, described here as "a Captain of one of their Majesties' ships of war,† son of Jan Weyhman, of Hamburg, deceased, late a Colonel of horse in his Imperial Majesty's service."
3. Daniel Kroger, merchant.
4. Simon Weddinghousen.
5. Daniel Olivier. [See also No. 811].
6. Henry Van Berchem, Reinier Lampe, Frederick Bode, each "of the Calvinist religion."

The Certificates state that the above received the Sacrament as below mentioned, viz. :—

1. On 8 April 1694, at the parish church of St. Martins-in-Fields. *Dated* eod. die. *Signed* Nich. Gouge, D.D., Vicar, and Tho. Apthorp, Churchwarden. *Attested* by Thomas Wickins and James Gordon.
2. On 2 April, 1694 at the Lutheran Church in Trinity Lane. *Dated* eod. die. *Signed* John Esdras Edzard, Minister. *Attested* by Theodore Jacobsen, Henry Jacobsen and Peter Seliken.
3. On 7 April 1694, at same. *Dated* eod. die. *Signed* as No. 2.
4. On 3 April, 1694, at same. *Dated* eod. die. *Signed* as No. 2. *Attested* by Edward Cort and Henry Erichs.
5. On 8 April 1694, at the French Church in Buckingham House, according to the rites of the Church of England. *Dated* eod. die. *Signed* H. Rocheblave, Minister; and Abraham Dugard, l'ainé, and J. Davids, Churchwardens.
6. On 9 April 1694 at the Dutch Church in London. *Dated* eod. die. *Signed* Samuel Biscop, Minister. *Attested* by J. Joyce, Junr. and Tho. London. Three certificates.

(*b*) 19th April, 1694.—Petition of Richard Peirce, Esq. Petitioner is farmer and collector of the ancient duties of Paccage, Scavage, Balliage, and Portage, payable by aliens only, for their wares and merchandizes imported into or expofted out of the City of London, and the ports and liberties thereof, by grant under the City at a yearly rent of 1,200*l*. Those duties are the ancient inheritance of the City, confirmed to them by divers Acts of Parliament, and being but small sums, are of little consequence to any particular person, but are a considerable part of the City's revenues. The impairing and lessening them by a naturalisation of aliens will disable Petitioner from paying the said rent, and consequently the City from answering the settlement lately made by Parliament for the orphans and creditors of the City. Several persons lately added by the Commons to the Bill for naturalising are merchants and traders, in whose names and through whose means many goods of their own and other aliens will be coloured and imported and exported, and thereby the duties greatly lessened, if not totally destroyed. Prays for some provision for

* He or his father, of the same Christian name, was made principal Secretary and Master of Requests to the Queen in 1689. *Luttrell* (3 April 1689).

† A Capt. Weyman was tried and cashiered in 1694 for disobeying M. Caermarthen's orders at Brest. *Luttrell* 30 Aug 1694.

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saving the rights of the City and Petitioner to the duties. *Endorsed* as read this day. L. J., XV. 421.

(*c*) 21 April 1694. Engrossed Proviso as follows: Provided always and be it enacted by the authority aforesaid, that nothing in this Act contained shall be construed to exempt any of the persons who shall claim any benefit by this Act from the payment unto the Mayor, Commonalty and Citizens of the City of London, any of the duties collected at the Custom House and heretofore lawfully received and enjoyed by them (and now appropriated by Act of Parliament for the payment of the orphans' debts), but that the same shall still be paid as if this Act had not been made. *Endorsed* as rejected this day upon hearing.

(*c*)[1] Duplicate of above. No endorsement.

829. March 29. D. Bolton's Privilege. (Billingsley *v.* D. Bolton.)—Petition of Lewis Billingsley, Esq., John Lauze, Esq., and others, Creditors of Sir Christopher and Sir Wm. Wray, Baronets, for a special order giving them leave to examine their witnesses in a Cause in Chancery against the Duke. L. J., XV. 406.

Annexed:—

(*a*) Copy Standing Order of 3 July 1678 enabling a party, in cases where it is necessary to examine witnesses *in perpetuam rei memoriam*, to file a Bill against a Peer, notwithstanding privilege of Parliament, and take out process for that purpose only. *Signed* Math. Johnson, Cler. Parliamentor. [*Appended to* preceding.]

830. April 2. Hawkers and Pedlars Prohibition Bill.—Commons' Engrossment of an Act against Hawkers and Pedlars. For the text of this Bill see the previous Bill of 17 Feb. 1692–3, with which the present one substantially corresponds. *Parchment Collection.* [Brought from the Commons this day. (L. J., XV. 408.) Read 1ª on 4 April, and after debate, the question for second reading negatived. (*Ib.* 410)*.]

831. April 9. Coin Clippers Discovery Bill.—Commons' Engrossment of an Act for the better discovery of Clippers of the Coin of this Kingdom.—Whereas by an Act of Parliament made in the fourth year of the reign of Henry the Seventh, late King of England, intituled An Act allaying of Gold and Silver melting, selling and marking the same, it was (amongst other things) Enacted that no finer nor finer's parter or parters of Gold and Silver should sell to no person, neither to one nor to other, any manner of silver in mass molten and allayed upon pain of forfeiture of the same, one moiety thereof to the King and the other to the informer, and that no goldsmith or goldsmiths within this realm should melt or allay any fine silver, to be for any works or other intent, but only for making of Amells for divers works of goldsmithry, and for amending of plate to make it as good as sterling or better; nor that they sell no fine silver nor other silver allayed molten into mass to any person or persons whatsoever, nor one goldsmith to another, upon pain of forfeiture of the same silver or the value thereof, to be divided as aforesaid; And whereas the current coin of England hath of late years been exceedingly clipt and diminished by wicked and ill-disposed persons, contrary to the laws of the land and in despite of the great penalties inflicted for the same, and nothing hath more encouraged such

* *Lutirell*, under date 1 April 1693 has the following: "The Lord Mayor Aldermen and Common Council have under consideration an Act to restrain hawkers and pedlars, which would be of use to the traders within the same."

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offenders to prosecute their wicked designs than that after they have so done, they have molten the said clippings into mass and exposed the same to sale to goldsmiths and other persons who, for filthy lucre sake, have not caused the same to be stayed or seized, and many thieves and robbers, who have possessed themselves of plate, for fear of discovery by selling such plate, have melted the same into bullion and then sell the proceed in mass; For remedy whereof be it enacted by the King and Queen's most Excellent Majesties etc, That from and after the first day of May, which shall be in the year of our Lord one thousand, six hundred, ninety four, if any person or persons whatsoever shall offer or expose to sale any clippings of silver or any molten silver (except foreign bullion) to any person or persons, goldsmith or others, it shall and may be lawful to and for such person or persons to whom such clippings or molten silver (except before excepted) shall be offered to be sold, not only to stop and stay such clippings and molten silver, but also the person or persons who so offereth the same to be sold, until he or they shall acquaint some Justice of the Peace in the county, city or town corporate, wherein such clippings or silver shall be offered to sale with the same, who is hereby required to take effectual care to imprison or take bail of such person or persons so offering such clippings or molten silver to be sold, as the circumstances of the fact shall require, in order to the trial of the offenders, and if upon the trial of such person or persons, or upon any conviction upon his or their confession in open Court, Judgment shall be had against him or them, the said person or persons so convict shall not only lose the said clippings and molten silver so offered to be sold, whereof one moiety shall be to their Majesties, their heirs and successors, and the other moiety to him or them who shall inform of and prosecute for the same, but shall also suffer such fine, pains and penalties as the Court, before whom the matter shall be tried, shall in justice inflict.

And be it further enacted by the authority aforesaid, That if, at any time after the said first day of May, any goldsmith or other person shall buy of any person or persons whatsoever any clippings of silver or molten silver (except before excepted), and the same be proved by one or more credible witnesses and be thereof convicted, the said person or persons buying the same and convicted shall not only pay the treble value thereof, one moiety of which shall be to their Majesties, their heirs and successors, and the other to him or them who shall prosecute for the same, but shall over and above be fined by the Court as in their judgment they shall think meet.

And for the better discovery of the offences and offenders in the premises, be it further enacted by the authority aforesaid, That it shall and may be lawful to and for any Justice of the Peace of any county, city, liberty or town corporate within the Kingdom of England, dominion of Wales or town of Berwick-upon-Tweed, in their proper persons, or any constable or constables by warrant from such Justice, with such assistance as they shall respectively think fit, in the daytime to enter into the house or houses of any person or persons suspected for clippers, or of persons suspected to be buyers of such clippings or buyers of bullion melted from plate unduly come by, or into any warehouse of any common carrier, to search for such clippings or unlawful bullion, and in case of refusal to admit of such search by such occupier of such house or houses, or of such carrier or carriers, it shall and may be lawful for such Justice or Justices of the Peace or constable to break open any door, bar or pack to search for and discover the same, and in case they find any such clippings or molten silver, then to

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seize and detain the same; and it is hereby declared that the sender or senders of such clippings or molten silver shall be in the like case and condition as to the trial, forfeitures and penalties by this Act directed, as the sellers of clippings or molten silver are or shall be, and distribution shall be made of such clippings or molten silver so seized in manner as aforesaid.

And be it further enacted by the authority aforesaid, That all molten silver or clippings of silver coin, seized and forfeited by virtue of this Act, shall be delivered to the Sheriff or Sheriffs of the county, city or town corporate where the conviction shall be, in open Court *by weight*, who shall be charged with two-fifth parts of the value thereof for the use of their Majesties, their heirs and successors, as if so much money had been actually paid to him or them, and shall be estreated into the Exchequer as a charge to be answered, and the said Sheriff or Sheriffs shall then pay to the Informer and prosecutor other two-fifth parts of the value of the said molten silver or clippings of silver so seized and forfeited, and shall retain the other fifth part for his pains and charges in that behalf.

And it is further enacted by the authority aforesaid, That all and every Sheriff and Sheriffs, to whose hands such molten silver and clippings of silver shall come as aforesaid, shall cause the same to be brought to the Warden of their Majesties' Mint in the Tower of London, to be coined into the current money of England for the use of the said Sheriffs.

And be it further enacted by the authority aforesaid, That whatsoever silver bullion or molten silver which hath not the mark *set upon it* at the Custom House upon the importation thereof, shall *not be deemed or* taken to be foreign bullion, but shall and may be seized upon by virtue of this Act.

And be it further enacted by the authority aforesaid, That if at any time hereafter any action or suit shall be brought against any person or persons acting pursuant to this Act, the defendant and defendants shall or may plead the general issue, and if upon the trial of the cause, a verdict pass for the defendant or defendants, or the plaintiff be nonsuit or discontinues his or her action, the defendant and defendants shall recover his or their double costs.

Saving nevertheless to all bodies politic and corporate and other person and persons all their right and title to such share of the forfeitures by this Act to be paid to their Majesties, their heirs and successors only, in like manner as other forfeitures have been lawfully taken by them. *Parchment Collection.* [Brought from the Commons this day; read 1ª on the 11th. (L. J., XV. 412, 413). In C. W. H on 17 April, E. Manchester in the Chair, Counsel were called in for the Goldsmiths of London and Workers in Silver (No. **833**). *Sir Thomas Powys:* There are two or three Clauses in the Bill which we desire to have amended. The Bill will be of fatal consequence, if passed as it is. If any person shall expose for sale any clippings or bullion, it shall be forfeited. The mischiefs, that will fall on all goldsmiths, will be inevitable. If molten silver be carried to any place, it may be seized, if he cannot prove whence it came. As to the Clause for searching houses and packs, it is very large, and any packs may be opened. As to the clause for seizing all bullion not marked at the Custom House, as to this, there never was any such custom. *Sir Bartholomew Shore* (for the Goldsmiths) is heard. They produced several sorts of silver, as it comes into England. *The Officers of the Mint*, being heard, say this Bill relates very little to them, for they will

take notice only of the third part forfeited to the King, which we are to coin and deliver to the Sheriffs. Counsel withdrew. Bill read through. House resumed. On report, the House referred the Bill to a Select Committee, with C. Justice Treby to assist. (MS. Min.; L. J., XV. 418).—This Committee met on 18 April, E. Rochester in the Chair. The Goldsmiths and Officers of the Mint are called in. *Mr. Neele*, an Officer of the Mint, says he has seen the Bill, but thinks it will not hinder clipping. No law obliges the marking of silver, nor is it practicable. *Mr. Hoare* says the Mint is little concerned in the Bill. It will hardly put a stop to clipping. The clippings will be coined into old money. The clippers can whiten copper, so that it is not distinguishable by the eye from good money. The Bill will give no remedy. *The Goldsmiths* say, if the Bill pass, it will be a prohibition of the importation of bullion. They hope against another Session to be able to offer something that may remedy this matter; there is not time possibly to do it now. They withdraw. After debate, they are called in again and told: "The Committee have so much regard to what you say now and said yesterday in the House, they are of opinion to report that there may be no further proceeding on this Bill, but expect that, according to the proposals you have made, you will, against the beginning of the next Session, offer suitable heads for a Bill." They withdraw. *Ordered* to report that the Bill will not prevent clipping, &c., as in L. J., XV. 420, and ought not to be proceeded with (Com. Book.)]

832. April 11. Lee Warner *v.* North, on behalf of widows of Bromley College.—Letter of date, from Appellant to Mr. Allen, empowering him to withdraw the Appeal. L. J., XV. 414. [Another Appeal, with the same title, was brought on 11 Feb. 1695–6, and dismissed, after a hearing, on 3 March. (L. J., XV. 666, 691.)]

833. April 13. Coin Clippers Discovery Bill.—Petition of the Warden and Commonalty of the Mystery of Goldsmiths of the City of London. Several clauses and provisions in the Bill for the better discovery of Clippers of the Coin will tend to prejudice the importations of the Kingdom, to the ruin of the manufacture of silver and the handicrafts concerned therein. Pray to be heard by Counsel on the Bill. *Signed*, Augustine Dudley, George Grene, Jacob Sheldrake and John Hearne, Wardens, and John East, Peter Floyer, James Marmion, Francis Child and John Coggs. *Endorsed* as read this day. L. J., XV. 415. [For proceedings on this Petition *see* Notes to No. **831**, above.]

834. April 16. Privateers Encouragement Bill.—Commons' Engrossment of an Act for the better encouragement of Privateers.

Whereas by an Act made the last Session of this present Parliament intituled An Act for continuing the Acts for prohibiting all trade and commerce with France and for encouragement of privateers, sufficient encouragement for privateers or for the captains officers or others commanding or serving in their Majesties' ships of war was not enacted or provided:

§ i. Be it enacted therefore, by the King and Queen's most excellent Majesties, &c., that the said Act, except so much thereof as doth continue the said Acts for prohibiting all trade and commerce with France and the clause therein expressed for the encouragement of persons authorised by the Commissioners of the Customs to discover and seize goods of the growth, manufacture, and product of France, be from and after the end of this present Session of Parliament repealed,

1694. annulled, and made void, and is hereby repealed, annulled and made void to all intents and purposes whatsoever.

No. 834. § ii. And for the better encouragement of their Majesties' ships of war and privateers, Be it enacted by the authority aforesaid, that all ships or vessels of or belonging to the French King, or any of his subjects that shall be taken or surprised by any of their Majesties' ships of war, or by any privateer or privateers from and after the end of this present Session of Parliament (except within the Straits of Gibraltar, the Mediterranean Sea, or other places more remote from this kingdom) with the anchors, cables, rigging, tackle, guns, ammunition, furniture and apparel thereof, and the goods and merchandise found in such ships or vessels at the taking thereof, shall notwithstanding the said Acts for prohibiting all trade and commerce with France, or any matter or thing in either of them contained, be brought into some port of this kingdom with the hatches of such ships or vessels taken, nailed down and secured by the captain that took the same, and if taken by any of their Majesties' ships of war put into the possession of their Majesties' Commissioners for Prizes, their agents or deputies, to be by them and the persons appointed by the commander of the ship which took such prize kept and preserved from all pillage, spoil embezzlement until after condemnation of the same in the Court of Admiralty and sale thereof (except the said goods and merchandise shall be perishable) in which case the Judge of the said Court may take bail for the same in order to the sale thereof, and the money arising from such sale to be distributed and divided as is hereinafter mentioned and directed, if the said goods and merchandise shall be condemned as prize.

§ iii. And be it further enacted that after the said ships and vessels, goods and merchandise so taken by any of their Majesties' ships of war, or by any privateer or privateers, and condemned prize, as aforesaid, the same shall be appraised by two or more persons to be appointed by the said Court of Admiralty, and by two of the officers or seamen of the ship or ships which took or surprised such prizes, or persons by them appointed upon oath, according to the true and just value thereof (which oath the Judge of the said Court is hereby empowered and required to administer) and after such appraisement the same shall be entered at the Custom House, and all customs, duties and impositions for the same paid and answered to their Majesties, and if taken by any of their Majesties' ships of war shall be sold (by their Majesties' Commissioners of Prizes, their agents or deputies and the persons intrusted by the captain or chief officer of the ship which took the said prizes within one month after condemnation) for the best advantage by inch of candle, public notice being first given by the space of fourteen days at the market cross of such port where such prizes shall be brought in; or if at London, upon the Exchange there, of the quantities and the qualities thereof and of the place of such sale.

§ iv. And be it enacted that out of the money arising from the sale of such ships or vessels, goods or merchandise taken as prize by any of their Majesties' ships of war the subsidy of tonnage and poundage and all other duties and impositions payable to their Majesties for the same being first paid and satisfied, the remainder thereof shall be divided into four equal parts; one-fourth thereof shall be paid and answered to their Majesties; one other fourth part to the Treasurer of their Majesties' Navy, to be by him paid to the Chest at Chatham, for the uses and purposes there used and accustomed, and the other two fourth parts to the captain of the ship which took such prize, to be by him

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divided and distributed in and by four equal shares and proportions in manner following (that is to say), one-fourth part to the captain of the said ship; one-fourth part to the commission and warrant officers, mates and pilots, and two-fourth parts to the seamen and soldiers serving on board the said ship when such prize was taken.

§ v. And be it further enacted that two-third parts of the value of all ships or vessels of war or others taken prize by any privateer or privateers, with the anchors, cables, rigging, tackle, guns and ammunition, furniture and apparel thereof and all goods and merchandise found in such ships or vessels at the taking thereof, after condemnation and appraisement thereof as aforesaid, and all duties and impositions payable for such goods and merchandise paid and answered to their Majesties, shall be and remain to the owner and owners of and persons interested in such privateer and privateers who shall take the same and the other third part to the captain, officers, and ship's company of such privateer, without paying any tenth or other part of the value thereof, or any other sum or sums of money for or by reason of the same to their Majesties, the Lord High Admiral or the Commissioners for executing the Office of the Lord High Admiral of England, or any other person or persons whatsoever.

§ vi. And be it further enacted that all privateers or private ships of war that shall be taken by any of their Majesties' ships of war and condemned as aforesaid shall be sold by the captain of the ship which took the same, and the money arising from such sale (except so much thereof as shall be expended in proceeding against such prize in the Court of Admiralty or elsewhere) shall be divided and distributed between and among the captains, officers, mates, pilots, seamen and soldiers serving on board the said ship when such prize was taken, in and by such shares and proportions as is hereinbefore directed and appointed.

§ vii. And be it further enacted that if any of their Majesties' ships of war or any privateer shall in fight take, sink, fire or otherwise destroy any ship of war of or belonging to the French king, or any of his subjects, or in the actual service of the French king, the captain, officers and the rest of the company and soldiers of such ship of war and the persons interested in such privateer shall receive as a reward for such service ten pounds for every piece of ordnance mounted in any such ship of war so taken, fired, sunk or destroyed, to be paid to the captain or chief officer of such of their Majesties' ships of war, or to the persons interested in such privateer or privateers within ten days after demand thereof by the Commissioners of their Majesties' Navy, upon oath made before the said Commissioners or any three or more of them by the said captain, chief officer or any two of the seamen of the number of the ordnance mounted in such ship or vessel when taken or destroyed, if in the port of London, or before the chief officer of the Customs in any other port within the Kingdom of England, and if by one of their Majesties' ships of war, to be divided and distributed as and by such shares and proportions as is herein before directed and appointed, which oaths the said Commissioners or officers are hereby empowered and required to administer.

§ viii. And be it further enacted by the authority aforesaid, that if any ship or vessel of or belonging to the French king, or any of his subjects, or being then in the actual service of the French king shall be taken as prize by any of their Majesties' ships of war or privateer within the Straits of Gibraltar in the Mediterranean Sea or other places more remote from this kingdom, it shall and may be lawful for the

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captain and commander of the ship which took such prize to carry the same into any port or place where there shall be a Court of Admiralty, or English agent, factory or plantation, and there to proceed in such Court of Admiralty against such ship or vessel and the goods and merchandise taken therein, until acquittal or condemnation thereof, if there shall be such Court there, or otherwise before the Consul, agent or president of such Factory, or chief governor of such plantation, his or their deputy or deputies, by good and sufficient evidence upon oath to prove the said ship or vessel goods and merchandise to be lawful prize, and after condemnation thereof on proof made as aforesaid, to sell the same for the most can be made thereof in the presence of such consul, agent, president or governor, his or their deputy or deputies. And if taken by one of their Majesties' ships of war, the captain thereof shall retain to himself and pay to their Majesties, the Chest at Chatham and to the other officers, mates, pilots, seamen and soldiers serving therein, as in case of prizes sold in any port of this kingdom is hereinbefore directed and appointed. And the said captain of such of their Majesties' ships of war or privateer shall deliver to the Judge of the Admiralty Court at London, an authentic copy of the sentence of such condemnation, a certificate signed and sealed by the Judge of the Admiralty Court where such ship or vessel, goods or merchandises were condemned as prize, or by the persons before whom such proof and sale was made as aforesaid, containing the substance of such proof and the value for which the same were sold bonâ fide, to be filed in the said Court of Admiralty at London, and together with three or more of the officers or seamen of the said ship shall make oath before the Judge of the said Court (which oath the said Judge is hereby empowered and required to administer) of the truth of such certificate and the matter therein contained. And if such prize, ship or vessel shall be taken by any privateer or privateers the money arising from the sale thereof and of the goods and merchandise taken therein shall be and remain entire to the persons interested therein upon pain for every captain or commander of any of their Majesties' ships of war or privateer for not performing the several matters and things hereby required and enacted to be done in case of any such prize so taken in remote places from this kingdom, double the value of such prize so taken as aforesaid, one moiety thereof to their Majesties, the other to the informer, to be recovered in any of their Majesties' Courts at Westminster by action of debt, bill, plaint or information, wherein no essoin, protection, privilege, wager of law or more than one imparlance shall be allowed.

§ ix. And be it enacted that if any ship or vessel of any of their Majesties' subjects taken by the enemy shall be retaken by any of their Majesties' ships of war, or by any privateer or privateers, or by any boat or vessel before the same shall have been carried into any of the enemy's ports or condemned as prize in an Admiralty Court, and the owner or owners thereof or of the goods and merchandise therein retaken, their agents or deputies shall by sufficient evidence upon oath before two or more justices of the peace inhabiting in or near such port or place where such retaken ship or vessel shall be brought in (which oath the said Justices are hereby required to administer) prove his or their right and property therein, or if beyond the sea before the Chief Magistrate of the place, and deliver a note or certificate of such proof, under the hands and seals of the said justices or chief magistrates to the captain or any officer of the ship which re-took such prize, the captain of the said ship shall cause the said

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re-taken ship or vessel, goods and merchandise to be delivered to the owner and owners respectively, he or they paying to the captain if of one of their Majesties' ships of war one eighth part, or, if of any private ship of war one fourth part of the real value of the ship or vessel, goods and merchandise so delivered: And that any captain of any ship of war refusing or neglecting to deliver back such retaken ship or vessel, goods and merchandise upon sight or delivery to him of such note or memorandum (the salvage thereof being first tendered) as aforesaid, shall forfeit and lose to the owner and owners thereof double the value thereof to be recovered in any of their Majesties' Courts at Westminster, by action of debt, bill, plaint or information wherein no essoin, privilege or protection or more than one imparlance shall be allowed.

§ x. And be it further enacted that if any of their Majesties' ships of war or privateer or any person or persons shall seize, take or surprize any vessel or boat whereupon wool is laden to be transported beyond the seas, and not demanded within the space of two months after by the owner or owners thereof, or if demanded the same shall be proved upon a trial or proceeding in their Majesties' Court of Exchequer, the said vessel or boat with the furniture thereof and the wool thereupon laden shall be and remain entire to the captor or captors without any manner of deduction or payment of any sum of money to their Majesties or any other person or persons whatsoever.

§ xi. And be it further enacted that the shares and proportions of prizes taken and rewards hereby given to the commanders, captains, seamen and soldiers commanding or serving in any of their Majesties' ships of war shall be in lieu and full satisfaction of all shares and prizes by them taken, as well in fight as otherwise, during the present war with France, one Act made in the thirteenth year of the reign of the late King Charles the Second, entituled An Act for establishing articles and orders for the regulating and better government of his Majestys' navies, ships of war and forces by sea, or anything therein contained, or any declaration or orders of their Majesties to the contrary notwithstanding.

§ xii. Provided always and be it enacted that if any captain, officer, seaman or soldier in any of their Majesties' ships of war shall pillage, embezzle or fraudulently conceal or convey away or cause or procure to be pillaged embezzled or fraudulently concealed or conveyed away any part of the rigging, tackle, anchors, cables, guns, ammunition, furniture or apparel of any prize ship or vessel, or any part of the goods or merchandise taken in any room or place below the gun-deck of such ship or vessel, and sufficient proof shall be thereof made by the oaths of two or more witnesses before the Commissioners of the Customs in the port of London (if such offence shall be there committed) or in any place within the view or knowledge of any of the officers of their Majesties' Customs belonging to the port of London or before the Chief Magistrate of the place in the presence of the chief officer of the port in any other port where such prize shall be imported (which oaths the said Commissioners of the Customs in the port of London and Chief Magistrate respectively are hereby required and empowered to administer and to hear and determine the matter without delay), such captain, officer, seaman and soldier so offending shall forfeit double the value of all such goods, merchandise and things so pillaged, embezzled, concealed or conveyed away, the one moiety thereof to the informer to be delivered to him by warrant signed and sealed by the said Commis-

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sioners or Chief Magistrate, and the other moiety to be to their Majesties' use.

§ xiii. And be it further enacted that if any ship or vessel, or any goods or merchandise of the growth, product or manufacture of the dominions or territories of the French king shall be fraudulently by consent or collusion taken by any privateer, the said ship and vessel, goods and merchandise with all the rigging, tackle, furniture and apparel of such ship or vessel and also the ship and privateer which took the same with the rigging, cables, anchors, guns, ammunition, furniture and apparel thereof, upon proof thereof made in a trial in their Majesties' Court of Exchequer, or in the Court of Admiralty, shall be and are hereby declared and enacted to be good prize and forfeited, the one half to their Majesties and the other to the Informer. And in case such ship or vessel, goods or merchandise shall be taken by any of their Majesties' ships of war fraudulently or by or with the consent or collusion of the captain or commander thereof, such captain or commander shall forfeit the sum of Five hundred pounds, and double the value of the said ship, vessel, goods and merchandise so taken, the one moiety to their Majesties and the other to the person that shall discover the same, to be recovered by action of debt, bill, plaint or information in any of their Majesties' Courts at Westminster, in which no privilege, essoin, protection, wager of law, or any more than one imparlance shall be admitted or allowed, and the entire ship or vessel with the anchors, cables, rigging, tackle, furniture and apparel thereof and the goods and merchandise so taken shall be forfeited to their Majesties.

§ xiv. And whereas the fees and charges of the Admiralty Court in proceeding there against prizes taken have of late time been increased to the great discouragement of their Majesties' subjects in setting out privateers, Be it enacted that all officers of and persons attendant upon the said Court shall before the four and twentieth day of May one thousand six hundred and ninety-four bring in before the Judge of the said Court upon their respective oaths (which oath the said Judge is hereby required to administer) a true and just account of all the ancient and lawful fees due to each and every of them for all acts, matters and things by them to be done or performed in all suits and proceedings there against any prize taken, and that a catalogue or table thereof be hung up and exposed to public view, in the common hall or place where such Court shall be held every day of the week except Sundays.

§ xv. And for preventing abuses practised by privateers and all and every other person or persons to take as prize ships or vessels being within their Majesties' ports, rivers or havens, or under the command of any fort or castle, Be it enacted, that where any ship or vessel shall be taken in any of their Majesties' ports, havens or rivers or under the command of any fort or castle by any privateer or any other person or persons whatsoever, such prize upon condemnation thereof shall be and belong wholly and entirely to their Majesties as a perquisite of the Admiralty, allowing to the captor or captors one third part of such ship or vessel of the goods therein taken.

§ xvi. And be it further enacted that all ships and vessels taken as prize so or in any other manner taken or shall be taken condemned and sold and likewise all derelict ships and vessels shall be esteemed and adjudged free and have the privilege of English built ships, the owners thereof paying such duties and impositions as have been heretofore used and paid for the making and allowing foreign and prize ships free ships

of England, any law, statute or usage to the contrary in any wise notwithstanding. 1694.

§ xvii. Provided that nothing in this Act contained shall extend any way to infringe or diminish the rights and privileges of the Lord Warden of the Cinque Ports. No. 834.

§ xviii. Provided always and be it enacted and declared that the before mentioned Act, entitled an Act for prohibiting all trade and commerce with France and for encouragement of privateers, did and shall be construed to commence on the fourteenth day of March which was in the year of our Lord one thousand six hundred and ninety-two and not before. And whereas several sentences, judgments and other proceedings may have been had, made and given in the Court of Admiralty or by the Commissioners for hearing and determining appeals from the said Court of Admiralty, or by other Commissioners, officers or other persons concerning prizes or concerning other matters or things in the said Act contained, which were taken or done between the first day of the last Session of this present Parliament and the said fourteenth day of March, as though the said Act had commenced on the first day of the said Session of Parliament; To the end therefore that such sentences or proceedings may not hereafter be questioned or impeached; Be it enacted that all such judgments sentences and proceedings whatsoever had, made or given, or which shall be had, made or given before the end of this present Session of Parliament, shall be good, valid and effectual in law to all intents and purposes.

Parchment Collection. [Brought from the Commons and read 1ª this day. (L. J., XV. 417.) In C. W. H. on April 19, E. Stamford in the Chair, the Bill was read through. *Sir Charles Hedges*, who had been ordered on the 18th to attend with some of the Commissioners for Prizes (*Ib.* 420), was heard at the Bar as to the treaties with the Allies. There are Clauses, he said, prejudicial to the treaties. They withdrew. House resumed, and progress reported. *Ordered*, that the House be put again in Committee to-morrow after the Bill of Accounts. *Sir Charles Hedges* and the *Commissioners for Prizes* are called in and told by the Lord Keeper to prepare themselves against to-morrow, and make objections to such Clauses as they think objectionable in the Bill, and mark the Clauses to which they object. (MS. Min.; L. J., XV. 421.)

April 20. House again in Committee, E. Stamford in the Chair. *Sir Charles Hedges* and the *Commissioners for Prizes* are called in. *Sir Charles Hedges:* Clause 1. [§ ii. in Text above]. In relation to giving power to adjudge prizes taken by the King's ships in ports. They have carried this cause into the Exchequer, and so hindered the King of his prize. 2. [§ ii. above]. A Clause where it is said "all ships or vessels belonging to the French King" the words "and other ships that are liable to confiscation" should be added. If taken by any of their Majesties' ships. If this ship be not a French ship, we cannot make reparation. 3. [§ ii. above]. Then the Court of Admiralty shall take bail. This will be prejudicial to the merchants. 4. When a ship is brought in prize, it is said notice shall be given for the sale of her. [§ iii. above]. That notice would be better to be said "at the place of sale". 5. It vests the shares of privateers in the seller's fourth. *Dr. Newton* (for Commissioners of Prizes) is heard as to the Clause concerning embezzling of goods. [§ ii. above]. He reads the Clause. This Bill takes off the Statute in this case. Whether there should not be a penalty put down; besides the value. *Sir Bartholomew Shore* (for the Privateers): We

1694. — No. 835. hope this Bill will pass as it is, without alterations, and against all the exceptions made to it. What is taken in the Straits is to be condemned there. [§ viii. above]. Counsel and Civilians withdraw. House resumed, and, on report, Bill referred to the Select Committee on the Bill for building good and defensible ships (MS. Min.; L. J., XV. 422). On 21 and 23 April days were appointed for reviving the Committee, but nothing appears to have been done therein. (MS. Min.) No further proceedings recorded; the Com. Book giving merely an incomplete entry under 23 April. The Bill accordingly dropped.]

835. April 20. Shipbuilding Act.—Heads offered by the Trinity House to be part of the Bill for building good and defensible ships, viz^{t}.:—

That all merchant ships hereafter to be built, which are to have the benefit of this Act, be of three decks (reckoning the orlop for one), with a forecastle, quarter-deck and round house, and to be of 6 feet at least in height between decks from plank* to plank.* Their hawsers to be between decks. To be of no less than 450 tons. To have no less than 10 ports of a side between decks. To carry no less than 32 guns†, of which 18 to be between decks. The nature of the *guns* upon the lower deck to be demi-culverins of 30 cwt. at least; upon the upper deck, forecastle and steerage to be also demi-culverins of 22 cwt. at least, and those in the cuddy to be 6 cwt. at least. Not to carry less than 70 men, and to be all square-sterned ships. *Endorsed* as dated this day. Trinity House's opinion upon the Bill for building good and defensible ships. [The Bill was brought from the Commons and read 1^{a} on April 18, and referred to a Select Committee, E. Rochester, Chairman, on the 19th. (L.J., XV. 420.) In Committee, on 20 April, the *Trinity House* offered a Report [above Paper] which they gave to the Commons, which was read. There ought to be care to make large ports. Ships of two decks and a half are not defensible ships. The *Commissioners of the Customs* say that if a ship's first 3 voyages be from Virginia, the tenth by this Act payable by the King will do more than pay what the building cost. They propose it be payable only for two voyages. That it may be only Customs of tonnage and poundage. They withdraw. The *Commissioners of the Customs* are called in again, and told they shall have a copy of the Bill, and are to attend to-morrow with such proposals as they shall think proper.—On 21 April the *Commissioners of the Customs*, being called in, offer Proposals in writing which are read (Annex (*b*)), as also a Paper of Mr. St. Lo touching the building ships (Annex (*c*)). They withdraw. The Bill was then amended (Annex (*d*)) and ordered to be reported. (Com. Book, L.J., XV. 422.) These amendments were agreed to by the Commons with a further amendment, which is purely verbal (C.J., XI. 169); and the Bill received the Royal Assent on 25 April (L. J., XV. 426). 5 & 6 W. & M. c. 24.]

Annexed:—

(*a*) Duplicate of preceding, with the exceptions noted.

(*b*) 21 April 1694. Proposals of Custom House, as follows:—

1. It seems reasonable that the dimensions and regulations of building proposed by the Trinity House be observed, or else it is doubtful whether the shipping will answer the ends intended by the Act. 2. In the practice upon the former Acts, which gave the like bounty, the voyages taken notice of were either from India or the Straits, but chiefly from India, except two or three

* Annex (*a*) has *bank*. † Annex (*a*) here adds *close*.

from Virginia. But it is said that after the two first voyages, when the ships had been no longer capable of that bounty, the owners altered the build of the said ships, to accommodate them to their own uses, without regarding the design of the Act for making them defensible ships, and therefore it were desirable that all such ships as shall be built by the encouragement of this Act, should be obliged under a penalty to register, and not to alter their names or the figure of their ships, so as to make them less defensible. 3. By Customs is generally understood the Duties arising by the Act of Tonnage and Poundage, according to the Book of Rates, and none of the other new or additional impositions. But to avoid disputes it is conceived necessary, that instead of the word ("Customs") there be inserted ("the subsidy of Tonnage and Poundage"). It is also worthy to be considered, whether even those Customs are not already so appropriated, as that they cannot otherwise be disposed of without a special *Non Obstante* in the Act. It is further observed, that the bounties given by the former Acts were only for the two first voyages, and the bounty intended by the Bill is for the three first voyages. Custom House, London, this day. *Signed* Jo. Werden, Robt. Southwell, Robt. Clayton, C. Godolphin. [Offered in Committee this day by the Commissioners of the Customs. Com. Book.]

(*c*) 21 April, 1694. Paper stating as follows: "To make good defensible ships, they ought to have three decks, one of them to be the orlop, and to be between decks 6 feet at least from plank to plank, and to have at least 10 ports of a side, each port to be at least 6 feet one from another, and each port to be 26 inches square at the least, and their main capstan to be between decks, and the gear capstan spindle to come down between decks, and their bits and hawsers to be between decks; and to be square-stern ships, and to carry at least 32 guns close; so that these ships will be able to carry 50 or 60 guns at least, if in case taken into the King's service. These ships will be fit for the Line of Battle, if the King at any time have occasion for them. There ought to be great care in placing of their ports, that the guns do not come foul of their whipstaff nor bitts, and to be surveyed after built, that all things agree after these dimensions. *Signed* G. St. Lo. *Noted* as brought in this day by Capt. Saint Lo. [Offered in Committee this day by the Commissioners of the Customs. Com. Book.]

(*d*) 21 April 1694. Lords' Amendments to the Bill. [Made in Committee (Com. Book) and reported this day (L. J., XV. 422). They are printed *in extenso* in C. J., XI. 169, with the exception of the word "two" before "decks" in the 1st Amendment which is left out.]

836. April 21. D. Southampton's Privilege (G. Elwes).—Petition of Richard Shalmer, of St. Clement Danes, Gent., on behalf of himself, Henry Lloyd, of Bernard's Inn, Gent., his Attorney-at-law, and George Constable and others, the Sheriff of Middlesex's bailiffs. George Elwes, being indebted to the Petitioner Shalmer in a bond of 200*l*., failed to discharge the debt and absconded from his house in Milk Street. Petitioner, hearing lately where he lived and that he claimed protection, searched the Parliament book, but not finding his name, caused him to be arrested. Elwes then produced an obsolete protection signed by the Duke. Prays to be heard by Counsel in the matter. L. J., XV. 422.

1694. — No. 836. [The MS. Min. state that the House being moved this day that Elwes had been arrested, the above Petition was read, and the Petitioner was ordered to attend on the 23rd. After some other business, *Shalmer* came to the Bar, and was told what was alleged against him. He said he was a grocer of Milk Street, and was dogged by the Bailiffs to Widow Phillips' house, where he lodged. *Question* put, Whether the arresting George Elwes was a breach of privilege? Resolved in the *Affirmative*. Rest as in L. J., XV. 422. The House hereupon made the Order declaring any Protection to be void, unless entered 10 days before the end of the Session.* (*Ib.*)†

Annexed :—

(*a.*) Printed Protection referred to in preceding, viz^{t}.; "Whereas *George Elwes*‡ my menial servant, is employed about my urgent and weighty affairs as *Gentleman of my Horse*, in and about the Cities of London and Westminster and elsewhere; These are therefore to will and require you, and every of you respectively, to permit and suffer the said *George Elwes* during the time of the privilege belonging to the Parliament, quietly to go and come without your arrest, restraint, disturbance, attachment, trouble or molestation whatsoever, as you will answer the contrary at your perils. Given under my hand and seal this *fifteenth* day of *September*, in the *third* year of the reign of our Sovereign Lord and Lady King William and Queen Mary, Annoque Dom. 1691." *Signed*, Southampton (L.S.). *Addressed* "To all Mayors, Sheriffs, Under-Sheriffs, Serjeants-at-Mace, Marshals-men, Bailiffs and their, and every of their deputies, and to all other officers and ministers whatsoever, whom it shall or may in any wise concern." Underwritten is a certificate of J. Walker, Dep., and Matth. Johnson, Cler. Parliamentor, dated 24 Dec. 1691, and made pursuant to an Order of 28 March 1690, that the above Protection is entered in the Parliament Office. [Appended to preceding.]

837. April 25 (Prorogation). King's Speech.—His Majesty's Speech this day on proroguing Parliament to 18 Sept. next. L.J., 426 *In extenso.*

838. Sept. 18 (Prorogation).—Commission for proroguing Parliament this day to 25 Oct. next. *Parchment Collection*, L.J., XV. 427 *In extenso.*

839. Oct. 25 (Prorogation).—Commission for proroguing Parliament this day to 6 Nov. next. *Parchment Collection*, L.J., XV. 42[illegible] *In extenso.*

840. Nov. 6 (Prorogation).—Commission for proroguing Parliament this day to 12 Nov. inst. *Parchment Collection*, L.J., XV. 429 *In extenso.*

841. Nov. 12. King's Speech.—King's Printer's Copy of the King's Speech on opening Parliament this day. L.J., XV. 430–1 *In extenso.*

842. Nov. 12. Writs of Summons to the following Lords, who took their seats this day (L.J., XV. 431), viz. :—

(1) John Jeffreys de Wem, Chev^{r}, dated 3 Nov.

(2) Richard, Earl Rivers, dated 10 Nov.

* The concluding words in MS. Min., "and that none be entered in vacation time by the Clerks," are struck through.

† On 14 March the House read over the Protections, pursuant to an Order of the previous day, and made the Order as in L.J., XV. 393.

‡ The words italicised are in writing.

843. Nov. 12. Writ of Summons (L. Herbert of Chirbury).—Writ of Summons, dated 5 Nov., to Henry Herbert de Chirbury, Ch^r. [Introduced this day, L.J., XV. 431.] 1694. — No. 843.

844. Nov. 12. Peerage on father's Barony (L. Clifford of Launsborough).—Draft Order of Reference to Committee for Privileges to consider whether the son of a Peer's son, called by Writ into his father's Barony, becomes a Peer on his father's death. L.J., XV. 432 *In extenso.* [On 14 Nov., in the Committee for Privileges, L. President in the Chair, the Order of Reference was read, as also the Writ of Summons for L. Clifford. Ordered to report that no Precedent could be found in the Journals. (Priv. Book, 14 Nov., L.J., XV. 433.) On Report, on 20 Nov., it was *moved* to consider whether the Lord Clifford's father's Writ be not such an one as will entitle him to sit here. The Writ was read. L. Gray of Rollston's Writ of Summons read. It was debated whether L. Clifford has right to sit in Parliament. *Agreed* That Charles L. Clifford, son and heir of Charles late L. Clifford of Launsborough, has right to a Writ of Summons to Parliament (MS. Min. 20 Nov.). He took his seat accordingly on the following day (L.J., XV. 488. *See* No. 848.) —On 8 March, during a discussion on Baronies by Writ (No. 859) it was *moved* to consider whether the King, by calling a Baron hither by Writ, can give him any place before the date of the Writ. Ordered that the House will take into consideration the precedence of such Peers as shall be summoned to this House by Writ in their father's Barony, and of the descendants of such Peers (MS. Min. 8 March; L.J., XV. 514).—Accordingly, on 20 March, the Order of 20 Nov. (*see* above) in the present L. Clifford's case read. *Proposed* to explain L. Clifford's claim to a Writ of Summons. *Moved* to establish L. Clifford in the place of his father's Barony. Consideration adjourned, judges to attend and Attorney General to be heard (MS. Min. 20 March). The matter appears to have then dropped.]

845. Nov. 20. Writs of Summons, dated 10 Nov., to the following Lords, who took their seats this day (L.J., XV. 432), viz.:—

(1) Charles Howard de Escrick, Ch^r.
(2) Francis North de Guilford, Ch^r.

846. Nov. 20. Phillips *v.* Bury.—Copy of Writ of Error and Transcript of Record, brought in this day (L. J., XV. 432), and Tenor of Judgment given on 10 Dec. (*ib.* 441 *in extenso*). On 16 Oct. 1689, James Colmer, M.A., one of the Fellows of Exeter College, Oxford, was found guilty of incontinence with Ann Sparrow, and expelled by Arthur Bury, D.D., the Rector, with the assent of the Sub-Rector and six of the Fellows. He appealed to the Visitor, the Bishop of Exeter, who sent down Ed. Masters, Doctor of Laws, his Vicar, to review their sentence of expulsion, which after a Protest from them, he reversed. On the Bishop's Visitation, the following year, Dr. Bury and some of the Fellows refused to appear, and were pronounced contumacious by the Bishop. Dr. Bury, the Rector, and Dr. John Hearne, Rector of St. Ann's, Westminster, were, with the concurrence of four of the Senior Fellows, deprived, and some of the Fellows suspended for three months. Wm. Painter was elected Rector by the Fellows who submitted to the Bishop. The New Rector, Wm. Painter, and the Scholars of Exeter College, demised to the Plaintiff, Robert Phillips, the Rectory House in St. Michael's Parish, Exeter, from which he was forcibly ejected by Dr. Bury, who claimed to be the rightful Rector of Exeter College, and maintained the Bishop had exceeded his powers as

1694. — No. 846. Visitor. [On the Hearing on 7 Dec., *Sir Cresswell Levinz* opened for the Plaintiff: Exeter College is the Corporation by the Rector and Scholars. They find the Statutes of the College. If there fall any controversy between Master and College, it is to be referred to the Chancellor of the University. A Statute that concerns the Visitation of the College. He recites the Clauses in the Statutes that are concerned in this case. The question is whether the Court of King's Bench had any power in this case to judge whosoever is the Founder is the Visitor and the Patron. He cites several cases. The Court of King's Bench cannot be judges of this deprivation. This is the 29th Rector that has been expelled. The Court of King's Bench are not judges in several cases, as in the Admiralty and in the Ecclesiastical Courts. Corbet's Case, 22 Edw. IV. Cooke, fol. 29, Bunting's Case. Rolle's 2nd Abridgement, 219. The deprivation, they say, is void, because made on the fourth day. I conceive the Rector is not within the Statute. *Sir Thomas Powys*, for the Defendant (? Plaintiff): Cites and speaks to several cases. If this Judgment stands, it will make great alterations in the University. They say there is a freehold taken from the Rector. They say *Westminster Hall* examines the acts of Justices and other things. *Why not this?* The proceeding of a Visitor is not on the same ground. They say, We come to Westminster Hall, and not they. This is no answer. Say they, he is to have four of the Senior Fellows. I will read the words of the Statute to this. *Sir Bartholomew Shore*, for Dr. Bury: There is nothing of Incont[in]ency or Heresy charged on Dr. Bury. The case is, who was Rector at the time of bringing this action. Dr. Bury is now actually in his freehold. We say this is examinable before Your Lordships. Marshall's Lea's Case, 1 L. 10th Rep. It is not a necessity to obey him who is not judge. The Commissioners of Sewers have a limited authority. No man will say that the Bp. of Exeter, as bishop, is Visitor. If he is, he is a creature of the Founder; and so he is as much bound by the law of the Founder as any other. This is a particular power as to three things. Dyer, 62 As to our law, there is no difference. Cooke, 13 Rep., concerning Parish Clerk. The proceedings are not of Record, nor Ecclesiastical Jurisdiction. Though in the Custom of a Manor, the Custom says, You are at liberty for fines, yet the law is positive, you shall not; and so now we are come to say by law. Two years' purchase is arbitrary for a fine. The Bishop had no authority to visit at this time. This deprivation is void and illegal, because by his own single person, when he is limited to four with him. He spoke as to the suspension of the four head Fellows, and not having their concurrence. *Mr. Skinner*, for the College: The question is, whether Wm. Painter or Dr. Bury is Rector of Exeter College. He recited the Statutes of the College, and explained to what they did belong in this case. *Sir Creswell Levinz*, in reply: The case of the Commissioners of Sewers I desire them to answer to. Let them show me one case wherein the Admiralty proceedings within themselves are judged. What they have said as to his Visitorship in particular. We go by the general words of the Statutes. Counsel withdrew, but were called in again and asked as to the general power of the Visitor. *Sir B. Shore:* Nothing gave the Visitor power but the Statutes. If no Statutes, no Visitor. *Question*, Whether the Common Law gives power to the Visitor to make new Statutes? *Sir Cres. Levinz:* Visitor, he has a power to judge by other laws. He has no power to make any. *Question*, If the sentence be ever so wrong, is there no Appeal? *Levinz:* There is not, I think. This must be binding. When this matter was heard below, was any Demurrer to the

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Court? It could not. It is in the same manner as here. *Ordered* to report to-morrow. (M.S. Min.). — On 8 Dec. the L. Keeper reported: Exeter College is a Corporation; the Bp. of Exeter, Visitor. He recited several Statutes, and stated the whole as offered by Counsel, which being ended, the House went into debate of the matter. *Moved* to come to this Resolution, Whether there lies an Appeal. *Moved* to read the judgment of the King's Bench. Judgment read, and debate adjourned. (MS. Min.).—On 10 Dec., Debate resumed. Part of Statutes read. *Moved* to consider, What is a Contumacy? *Proposed* to enquire whether the Bishop's Chancellor has *liberum accessum*. After long debate, Judgment reversed (MS. Min.; L. J., XV. 441).—On 16 Jan. a Petition (Annex *b*) was presented by William Painter complaining that a citation to choose a new Rector had been set up by Mr. Verman, the pretended Sub-rector. *Ezra Cleveland* swore he had seen the citation for that purpose. It said, the Rectorship being void, they must choose a new Rector. The House was acquainted that some of the Fellows own this matter, and give this reason, Mr. Bury may be legally out and yet Painter not legally in. A great number of the Fellows have protested against his submission and declaration. The Declaration was read out of the Record. *Moved* that the Judges and Mr. Attorney be heard. *Mr. Baron Powell:* The right of election is not in this concluded. *Mr. Attorney:* Whether the College, as to right of election, is bound, Your Lordships must judge. *Ordered* the Petition to be dismissed.—On 31 Jan. a Petition of the Bishop of Exeter, praying that effect might be given to this Reversal (Annex *c*), was read, and the Judges were ordered to be heard (L. J., 475).—On 1 Feb. *Holt, C. J.*, heard: It was moved the first day of the term (*see* Annex *a*); the Counsel was not ready; and then a day was appointed, and the Counsel heard; and they pressed us to give judgment. I am now ready to give judgment. (MS. Min.).—On 5 Feb. *L. C. J. King's Bench* heard: The Counsel could not produce one precedent, though they searched for it. We considered how it had stood in all courts, even in the Civil Law also. The Court cease to be a Judgment after they have given an erroneous Judgment. What Judgment you will further give we will put in execution. *Moved* that the Judgment of this House be reinforced. The Clerks to search for precedents where Judgment has gone for the Defendant below, and has been reversed. (MS. Min., L. J., XV. 479.) —On 7 Feb. the Clerk stated that there was no case exactly to this, and some words were added to the Judgment (*ib.* 482).]

Annexed:—

(*a.*) 26 Nov. Petition of Arthur Bury, D.D., Rector of Exeter College in the University of Oxford, praying for longer time to join issue, the Record being so long that he cannot yet get a Copy of it. L. J., XV. 435.

(*b.*) 16 Jan. Petition of William Paynter, Rector of Exeter College, Oxon. The Verdict of the Jury below, confirmed by the Lords, was that Petitioner was the Rector if the Rector's place was vacant by the deprivation of Dr. Bury. This had been so adjudged, but Mr. George Verman, one of the Scholars, pretending himself to be Sub-Rector (*pro hac vice*) in the absence of Mr. Lethbridge, has set up a citation for an election of another Rector, declaring the Rectorship void, in contempt of the Judgment of the House. Prays relief against Mr. Verman and his accomplices. [Read this day and dismissed. L. J., XV. 463. *See* Notes above.]

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(*c.*) 31 Jan. Petition of Jonathan, Lord Bishop of Exeter. Upon the Reversal, Petitioner, on the first day of term, moved the Court of King's Bench for Judgment pursuant thereto, and was directed to move a second time on Saturday, when the Court declared they would take time to consider, without assigning a day, doubting whether the House or that Court ought to give Judgment in this case. Thus Petitioner, after a long and tedious expense and charge of four years' suit, cannot yet see when he shall obtain the effects of the Reversal. Prays their Lordships to consider how their Judgment may be made effectual and final by putting Mr. Painter into full possession of the Rectory of Exeter College. *Signed* Jon: Exon. [Read this day. L. J., XV. 475. *See* Notes above.]

847. Nov. 20. Symonds *v.* Gibson.—Petition and Appeal of Richard Symonds, Administrator of Henry King, deceased, and of George and Ann King, infants, children of Henry King. Henry King obtained the post of Purser in H.M.S. "*St. George*," through the influence of Richard Gibson, clerk to the Secretary of *the Admiralty*. King died, leaving two young children, the Appellants, and an estate of about 200*l.*, and Gibson sued the Petitioner Symonds, as Administrator, upon four bonds for 400*l.*, granted him by King, which, as acknowledged by Gibson, though bearing different dates, were all executed at the same time, and were the consideration to Gibson for his procuring King the Pursership. Petitioners brought a *Bill of* Complaint in Chancery for a stay of proceedings at law, and as no precedent could be found for setting aside the bonds, which the Lord Keeper wished to do, a Decree was made against Petitioners, but without interest or costs, in regard of the hardness of the case. The post, if allowed to be sold, would only have fetched 70*l.* The said bonds having been given for the sale of an Office of Trust in the Navy, for an excessive sum, exacted by a Clerk to the Secretary of the Admiralty, who during his employ sold divers other ships, and took great sums for the same, and the matter being of such general concern and *inconveniency* to the Fleet in general, and tending to the great discouragement of all the seamen of this nation, Petitioners appeal against the Decree, and pray that Richard Gibson may be ordered to answer. *Signed*, Rich: Symonds. *Countersigned*, Wm. Dobyns, Richd. Edwards. [*Read* this day (L. J., XV. 433). At the Hearing, on 12 Feb., *Sir Thomas Powys* heard for Appellant: The case never happened before, nor is there any precedent. *Mr. Dobyns*, for same: The man was qualified for the place, and the office is not worth more than 3*l.* a month. *Mr. Solicitor*, for Respondent: There is no precedent. If rules are not to be the guide, there will be no equity, but arbitrary. We have proved this place worth 400*l.* a year. This man paid 80 guineas for exchange. *Mr. Finch*, for same: If the Chancery had done otherwise, it would have been a latitude beyond all reason. This office is not within the Act of Parliament. This will make a latitude very inconvenient. There is no fraud nor circumvention in this case. This was at the Appellant's own solicitation. The Appellant knew this man had it. He bought it of him. He was not solicited to this. This is not like brokerages upon marriages. This gentleman had this office promised him. Samuel Pepys, Esq., was read. He served 15 or 20 years. The Defendant made application to him for a place. Instead of Gibson's name, King's was inserted. Here was a Warrant for surrender of the Clerk of the Clerk's place. John Trevor, to 6th

Interrogatory, read. The Decree was affirmed. MS. Min., L.J., XV., 489.] 1694. No. 847.

Annexed—

(*a.*) 3 Dec.—Answer of Richard Gibson. Respondent had been for 20 years a clerk in the Navy Office, and had not been advanced according to his standing, or as men with shorter service had been. Therefore, to compensate him, Mr. Sam. Pepys had promised him the Purser's place in the "*St. George*," which he was to fill in his own person, and which was worth 400*l.* a year in war time, and 80*l.* a year in peace time. But King, in consideration of 400*l.*, for which he gave bonds, got him to have the post transferred to him, and always said the transaction had been profitable to him. King exchanged for one voyage with Mr. Thewer, of the "*Coronation*," giving 80 guineas for the exchange, and was drowned when the "*Coronation*" was cast away near Plymouth. Believes King left a large estate, but Symonds refuses a full discovery of it, having chosen to be imprisoned in the Fleet rather than make one, and Respondent believes he intends to defraud the other Appellants as well as him. *Signed* only by the Respondent's Counsel, Roger Acherley. *Endorsed* as brought in this day. *See also* L. J., XV. 489.

(*b.*) 12 Jan. 1694–5.—Petition of the Respondent praying that Appellant may give security for costs, as he had lately absconded in Whitefriars, and was now a prisoner in the Fleet. *Endorsed* as read this day, L. J., XV. 460. [Ordered to give sufficient security by the 21st, or the Appeal to stand dismissed, (*Ib*).]

848. Nov. 21.—Writ of Summons. (L. Clifford of Launsburgh.)—Writ of Summons, dated this day, to Charles [illegible] Clifford de Launsburgh, Ch^r., who took his seat this day. L. J., XV., 433.

849. Nov. 26.—Speaker of the House (M. Normanby).—Commission constituting M. Normanby Speaker, the Lord Keeper being indisposed. L. J., XV. 435. *In extenso. Parchment Collection.*

850. Nov. 26.—Duvall *v.* Price (In Error).—Writ of Error and Transcript of Record, &c., brought in this day, with Tenor of Judgment of the House of 10 Jan. annexed. (L. J., XV. 435 and 458 *in extenso.*) Edward Price, Esq., a Justice of the Peace for Radnor and Montgomery, had brought an action for damages against John Duvall, Esq., who had openly said of him at Westminster "He is disaffected to the Government," whereby Price had been ousted from the Commission of the Peace. *Parchment Collection.* [On the hearing on 10 Jan. 1694–5, *Sir Tho. Powys*, for the Plaintiff Duvall, said, The damages are 200*l.*, and we cannot speak against it here. The words are not actionable. Quoted Ward v. Pell, Rolle's Abridgment. The loss of this office is no damage to him, for a Justice is not a profitable office. *Sir B. Shore*, on same side, cited several cases. *Sir W. Williams* (for Defendant): There is a loss in this case. The Plaintiff says he is no way disaffected, and he is a Justice of the Peace. "Disaffected" is as much as to say he is an enemy to the Government, Crooke's Rep. 193. An Action on the Case. *Mr. Northey* (on same side): Mr. Price is well affected, and not disaffected to the Government. The words are false and malicious. That is plain as found. We hope we may have taken only the legal way, and we have a good Judgment. Judgment reversed. MS. Min., 10 Jan.] (*See also* No. 855.)

1694. — No. 851.

851. Nov. 27.—Long v. Reeve (In Error).—Copy of Writ of Error and Transcript of Record brought in this day (L. J., XV. 436), and Tenor of Judgment given on 17 Dec. (*ib.* 446 *in extenso*) *signed* by Math. Johnson, Cler. Parliamentor. John Long, Esq., by his will, left some property in Melksham, Wilts, to Henry and Richard, sons of his eldest brother Richard Long, late of Collingborne, Wilts, Esq., Thomas, John, Richard, Henry, William, and Michael, sons of his second brother Thomas Long, late of Devizes, Gent., and William, John and James, sons of his third brother William Long, late of Little Sutton, Wilts, gent., and their heirs male successively, failing whom, to his own right heirs. At his death, Henry succeeded, and married Ann the Plaintiff; but he died without issue born, though his widow was pregnant. His brother Richard thereupon succeeded, and demised two messuages &c. to Charles Reeve, the Defendant, for five years. Then Ann gave birth to a son, Henry, and in his right ejected Reeve and regained possession of the property. [At the Hearing on 17 Dec. *Sir Thomas Powys* opened for the Plaintiff: Details the line in which the Testator devised the property. So he took pains to settle it in his name. The Testator died. The eldest nephew to his eldest brother was then unmarried, and after married and left his wife with child; and so the second son entered, until the child was born, and this second son has brought his Ejectment to turn the child out of doors. We shall endeavour to make out the line is with us. A Devise to a man for ever shall carry a Fee. That he intended it so is the whole progress of the Will. Case of D. Norfolk and Charles Howard. Coke I, Fol. 100. Dyer, Fol. 339 & 340. Cooke, 878-9, Bayle's Case. At the time when J. Long made his Will he knew his eldest nephew had no wife. An infant *in ventris amer* in many cases is taken as *in esse*, as Bedford's Case, 128 Hen. VI. Roll. Fol. 609 p. 2. A man may devise to *ventris amer*. If an immediate devise to a *ventris amer* be good, much more as this is, Crooke, 3 Rep. Vol. 4, Fuller and Fuller. *Sir Bartholomew Shore*, for same: There are abundance of rules of law, I will agree; and if this is a contingent remainder, I agree it is against us. The law has made a construction that there should be executory devises. *Sir Creswell Levinz*, for Defendant (Plaintiff below), states the entail. He who had the first entail had no son when he died. This was judged in the Common Pleas by all the Judges, and then argued in the King's Bench, and all the Judges of the same opinion. The other side have argued against two as known principles as any in law, (1) contingent remainders, (2) right of conveyance. They would make a new law for Mr. Long, and this must be so. This is an estate merely in contingency. *Mr. Northey*, for same: The case upon the Record is that John Long made his Will, with several remainders. It does not appear that this child's father was dead, and so there is nothing in this case. This is the law of England, and settled always. There is no law more settled than this. There is no one authority against this. There is a great deal of difference between wills and deeds, I agree. There is a manifest difference between a man's taking by descent and by will. My client, no question, has the law on his side. The intent of the party may be so. 23 Car. II., Purefoy and Rogers. Sanders, 2 Part. 403. *Judgment Reversed.* L. J., XV. 446].

Annexed:—

(*a*) 8 Dec.—Petition of Charles Reeve, Gent., the Defendant, for a day for hearing. *Endorsed* as read this day. L. J., XV. 440.

1694.] No. 852.

852. Nov. 29.—Marten *v.* Herbert.—Petition and Appeal of Henry Marten, Gent. Petitioner, and Philip Ward, his Trustee, let, in 1680, a farm in Longworth, Berks, to Thomas Herbert, at 150*l.* rent, and Herbert and his son William gave a bond for 300*l.* conditioned to perform the covenants of the lease. Nine years after, Herbert being in arrear with his rent, Petitioner distrained his goods, and on Herbert giving him a Bill of Sale for all his goods, and surrendering his lease, Petitioner gave up the bond. In the meantime one Keate seized Herbert's cattle, already sold to Petitioner, who only recovered 50*l.* for them, though they were valued at 150*l.* Three years afterwards Herbert sued Petitioner for the overplus of his goods, after the rent (212*l.*), in arrear had been satisfied, alleging Petitioner's promise to give it, and obtained a Decree, which gave Petitioner nothing for the damage caused by Herbert's breaches of covenant, for which the bond had been given. Petitioner, having given up the bond in exchange for Herbert's whole property, is now remediless. Appeals against the Decree, and prays Herbert may be ordered to answer. *Signed* Henry Marten. *Countersigned* Wm. Dobyns, Charles Pigeon. [Read this day, L. J., XV. 437. [At the hearing on 7 Jan. *Sir Thomas Powys* and *Mr. Pigeon* appeared for Appellant, and *Sir Bartholomew Shore* and *Mr. Dod* for Respondent, for whom it was alleged that the rent had been offered and refused, and that 290*l.* worth goods had been distrained for 150*l.* rent. Appeal dismissed with costs. MS. Min., L. J., XV. 455.]

Annexed—

(*a*) 3 Dec.—Petition of Thomas Herbert, the Respondent, for leave to sue *in formâ pauperis*, and to have Sir Thomas Powys and Mr. Samuel Dodd assigned him as Counsel. *Endorsed* as read this day. L. J., XV. 437.

(*b*) 8 Dec.—Answer of Thomas Herbert. The Decree was just. *Signed* with the mark of Thomas Herbert. *Endorsed* as brought in this day.

853. Dec. 4.—Bp. London and Dr. Birch *v.* The King. (In Error.)—Copy of Writ of Error and Transcript of Record, brought in this day (L. J., XV. 438). The Bp. London had the right to present twice in succession to the living of St. James' Westminster, L. Jermyn presenting the third time. Dr. Thomas Tennison, the first Vicar of St. James's, was made Bishop of Lincoln, but in view of the slender income of the Bishopric, allowed, by a dispensation from the Archbp. Canterbury, confirmed by Letters Patent, to hold his living as well for six months, at the end of which the Bp. London presented Peter Birch, D.D., to the vacant living. The Crown claimed the right of presentation in succession to an incumbent collated to a bishopric. [On the Hearing on 11 Jan., *Sir Thomas Powys*, for Dr. Birch, states the case. This is upon a *Quare Impedit.* The first question is whether the King has any prerogative to present to a church where the parson is a bishop. This prerogative fails by the Common Law, as we conceive. 1st Case, 21 Edw. III., fol. 4. *Sir Bartholomew Shore:* We insist their Writ is not good. No history can show us the exercise of this prerogative. *Mr. Solicitor*, for the King: I shall first speak as to the authorities they mention. They have argued further upon the Bp. of St. Davids' Case, Hen. VII. The authorities they mention do not show the King had not this authority. *Mr. Serjeant Gould*, for the King: The question is whether the King's turn is served. It is not served. He is in [possession] of the old, not of a new tithe (?). As this thing is, the King's prerogative must work.

1694. — No. 853. *Ordered* that the L. Keeper report tomorrow (MS. Min.). On 12 Jan. L. Keeper reported. After debate thereupon, *moved*, to ask the Judges' opinions, whether, there being a dispensation to Dr. Tennison to hold his living above six months, this is not the King's act, but a confirmation of the Abp's act. No time is defined by law. The question to reverse the Judgment was negatived by 40 votes to 30; E. Nottingham and E. Rochester, Tellers (MS. Min.).]

854. Dec. 5.—Bampfield *v.* Bampfield.—Petition and Appeal of Dame Jane Bampfield, widow of Sir Coppleston Bampfield, Bart. Petitioner's late husband settled upon her, for her jointure, the Barton of Warleigh, worth 500*l.*, which she surrendered on the marriage of Hugh, his son by a former wife, with Mary Clifford, only daughter and heir of James Clifford, Esq., so that proper settlements might be made. Sir Coppleston afterwards gave her, for her life, property in Dorset and Somerset worth 200*l.* a year, and, to compensate her for her jointure and dower, left to her, by Will, his house and park at North Molton and other lands, worth about 200*l.* a year more. After his death, Mary, the mother of his grandson Sir Warwick Coppleston Bampfield, an infant, took out Letters of Administration, and agreed with Petitioner that the latter should receive all the personal estate, and pay all claims out of it, which Petitioner did, to the full extent of the personal property and more. The infant Respondent, however, attempted to set aside this agreement, on the ground of his infancy, after Petitioner had paid the claims, and also refused to let her enjoy the park, &c., on the ground that, by the marriage settlement, his grandfather could only demise by Deed, and not by Will. Petitioner had recourse to Chancery, but the Decree was for her only on the first point, and against her on the second. Appeals against it, and prays that the Marriage Articles, which are in Respondent's custody, may be produced. *Signed* Jane Bampfylde. *Countersigned* Tho: Powys, Sam: Dodd. [Read this day (L.J., XV. 439). On the Hearing on 19 Jan., *Sir Tho. Powys* opened for the Appellant: Sir Coppleston settled some part of his Estate upon this lady, about 140*l.* per annum. He makes a Will, all of his own writing, and makes an addition to her jointure. He said, I have made a Will. Whether it be according to law or not, I cannot tell; but pray see my wife has no trouble in this case. It is stronger than the case of E. Bath and E. Montagu. *Mr. Dodd*, for same: Sir Coppleston had a power by a former settlement to make a jointure of 400*l.* per annum. She was Sir Courtney Poole's daughter. The heir at law has no prejudice in this case. We have paid 1,500*l.* out of the personal estate. Deposition of Elizabeth Drummond read. Cites E. Ormond's Case in Hubert's Reports. *Mr. Solicitor*, for Respondents: The question is whether the Court of Chancery is bound to make them a good title for an Estate which they have not by law. Are the Articles to control the Deed, or the Deed the Articles? To say the Deed shall be controlled, then all Deeds signify nothing. The question is whether your Lordships shall make good a Will which is only to be done by a Deed. This woman has a jointure, and here is nothing but a voluntary gift to a wife, and is no more than if it had been for a wife. *Sir Bartholomew Shore*, for same: We insist we have both Law and Equity on our side in this case. A man may by an Indenture make a Will; but to say a Will is made at last to carry an Estate as a Deed would, is very strange. This is not in consideration of a jointure. The Will is purely voluntary, and it must then be a Deed, or not good. We had 8,000*l.* portion; and part of this money went to discharge a

lebt upon this lady's last jointure. This lady has the whole of that which is clear. She is competently provided for. The words in the Will carry everything which is a personal estate. Appeal dismissed. (M.S. Min., L. J., XV. 465).]

Annexed :—

(*a*) 27 Dec. Answer of Sir Coppleston Warwick Bampfyld, Bart., an Infant, by his Guardian. Sir Coppleston could only give Appellant part of the Barton of Warleigh as jointure. What she got in Dorset and Somerset was worth 400*l.* a year. She had over 3,000*l.* clear out of the personal property. Sir Coppleston was only tenant for life of the Parks of Poltimore and Northmolton in Devon, and could not will them away to Appellant, who, moreover, brought him little or no portion, having married without her father's consent. Instead of having lost anything by surrendering her illegal jointure in the Barton of Warleigh, she is a gainer. *Signed* Mary Bampfylde. *Countersigned* Bartho : Shower, Nic: Hooper. *Endorsed* as brought in this day.

855. Dec. 10. Duvall *v.* Price (In Error)—Petition of Edward Price, Esq., Defendant in the Writ of Error brought by John Duvall, Esq., for a short day for hearing. *Signed* Edw. Price. L.J., XV. 441. Several days were appointed for the hearing. (See M.S. Min. 26 Nov., 3 Jan.)

Annexed :—

(*a*) 17 Dec. Petition of John Duvall, Esq., the Plaintiff, for another day for hearing, as his Counsel cannot appear on the 19th. *Signed* J. Duvall. *Endorsed* as read this day. L.J., XV. 445.

856. Dec. 10. Pierce's Estate Act.—Amended Draft of an Act for vesting certain lands and tenements, the Estate of George Gilbert Peirce of the Middle Temple, London, Esq., in Trustees for the raising moneys for the payment of his debts. The Lords' Amendments, besides several drafting amendments, were to add in the preamble the statement that Pierce possessed other property, worth about 4,000*l.* and sufficient for his maintenance and subsistence, and to substitute the Schedule of debts annexed to the Act for another. The only amendment made by the Commons was to add the Clause before the Saving Clause, as to the accountability of the Trustees. (C. J., XI. 264). [Read 1ª this day. Royal Assent, 22 April (L. J., XV. 441, 562, 7 Will. III. c. 39, in Long Calendar. *See also* Com. Book, Dec. 15, 22, 27 and Jan. 11.)]

Annexed :—

(*a*) 22 Dec. Consent of Walter Hooper of Stockbury, Kent, Esq. and Jane, his wife, one of the sisters and next presumptive co-heirs of George Gilbert Peirce, to the Bill for the payment of his debts, amounting to about 1,700*l.* *Signed* and *sealed* by the Hoopers and *attested* by Tho : Hooper and Tho : Taylor. Dated 17 Dec. [Produced before the Committee this day. Com. Book.]

(*b*) 22 Dec. Similar consent of Robert Hart of Brill, Bucks, Esq., and Margaret, his wife, another of the sisters and coheirs of Peirce. *Signed* and *sealed* by the Harts and *attested* by Tho : Hooper and Edm : Bentley. *Dated* 17 Dec. [Produced before the Committee this day. Mrs. Hart and Bentley had consented in person on 15 Dec. Com. Book of dates.]

1694. — No. 856.

(*c*) 22 Dec. Consent of Thomas Cooper, Sarah Cooper, and John Bathurst, the first three creditors in the Schedule to the Act, for the sums therein stated. *Signed* and *sealed* by these three creditors, and *attested*, as regards all three, by Tho: Hooper, and, as regards each respectively, by John Cripps, Jane Bentley, and John Bathurst. *Dated* 19 Dec. [Produced before the Committee this day. Com. Book.]

(*d*) 22 Dec. Similar consent of Sir John Huborne, Samuel Keck, Cavendish Weedon, Peter Burrill, and Thomas Bathurst, the rest of the creditors in the Schedule. *Signed* and *sealed* John Huband, Samuel Keck*, Caven: Weedon, P. Burrell, T. Bathurst, and *attested*, as regards all, by Cha: Mickle-thwaite. *Dated* 17 Dec. [Produced before the Committee this day. Com. Book.]

(*e*) 11 Jan. 1694–5. Lords' Amendments in Committee, made this day, and on 22 and 27 Dec. The effect of them is stated above. Com. Book of dates.

857. Dec. 11. Weymans' Naturalisation Bill.—Draft of an Act for naturalising of Francis Weymans and others, in the usual form. The persons to be naturalised are :—

1. Francis Weymans, son of John Weymans and Johanna Finson, his wife, born at Rotterdam.
2. Peter Soumans, son of Arent Soumans and Agneta Van Rysoort, his wife, born at Rotterdam.
3. Anthony Gronen, son of Kraft Gronen and Gertruy Waymers, his wife, born in Julliers, all of whom were sworn on 14 Dec. M.S. Min.

[Read 1a this day (L. J. XV. 443).—On 3 Jan., after 3rd Reading, notice being taken that the Bill runs in their Majesties' names, and yet is to take date from the first day of Sessions, and it being more than a literal amendment, the question that the Bill do pass was negatived. M.S. Min. See also next number and No. 871.]

Annexed :—

(*a*) 22 Dec. Certificate that Francis Weymans, of the Parish of Lambeth, Merchant, took the Sacrament at the Parish Church of Lambeth on 9 Dec. *Dated* 10 Dec. *Signed* John Clerke, Curate. *Attested* by Robert Carless, and the mark of John Brumhead, the Sexton of Lambeth. [Produced before the Select Committee this day. (Com. Book.)]

(*b*) 22 Dec. Similar Certificate as to Peter Soumans, of London, Merchant. [Produced before the Select Committee this day. (Com. Book.)]

(*c*) 22 Dec. Certificate that Anthony Gronen, Gent., of St. Mary Hill, took the Sacrament on 16 Dec. in the Parish Church of St. Peter, Cornhill. *Dated* 16 Dec. *Signed* by William Beveridge, D.D., Minister of the Parish, and *attested* by John Gentrey, parish clerk, and Isaac Ilive, of St. George's, Botolph Lane. [Produced before the Select Committee this day. (Com. Book.)]

(*d*) Paper containing besides the above three names of persons to be naturalised, that of John Van Omme, son of Frederick Van Omme and Giertie Harmens, his wife, born at Amsterdam.

* The statement of 100*l.* due to him is altered from one of 215*l.* due to Sir Anthony Keck.

858. Dec. 11. Weymans' Naturalisation Bill.—Lords' Engrossment of an Act for naturalising of Francis Weymans and others.
Identical in terms with preceding. *Parchment Collection.*

859. Dec. 11. Willoughby de Broke Peerage Claim (Sir R. Verney)—Baronies by Writ.—Petition of Sir Richard Verney, knt., cousin and next heir to Sir Robert Willughby, knt., Lord Broke, to the King, claiming the Barony of Lord Broke. *Signed* Richard Verney. L. J., XV. 442 *in extenso.* [The King's Reference to the House is torn off, though the signature "Shrewsbury" remains. The Petition was read this day, and Counsel and the Heralds were heard on 20 Dec. *Sir Tho: Powys* opened for Petitioner: The father and the son were both summoned to Parliament. By the Journals it appears he sat three times in Parliament; and then states his Pedigree, as in the printed Papers, and he offered evidence. *Mr. Northey*, for same: We have stated the Pedigree, and shown it is a Barony in Fee. The Heralds have examined the Pedigree, and at a Chapter they have allowed of it under their hands. *Sir Cresswell Levinz* agrees part of the Pedigree, to the daughter married to Sir Richard Verney. The Pedigree was agreed to on either side. *Mr. King*, the Herald, sworn to the truth of the Record in the Rolls Chapel. The several Writs of Summons examined at the Rolls Chapel were read at the Bar by Mr. King, Herald, who swore them to be true copies. *Sir Cresswell Levinz*, for L. Brooke, heard; The seat of Brooke was out of the family. King James created him L. Brooke of Beauchamps Court. This Willoughby set up for the title of L. Latimer. The Barons of England have borne their own surnames, as L. Gray de Cotnet, L. Gray de Ruthen, and the like. *Sir Bartholomew Shore*, on the same side: If he is entitled to a Barony, then it is not to be L. Brooke. We say, as his Petition and Pedigree is yet, he has no title. We do not controvert but a Baron may be created by Writ. He is no Baron except he actually sits. We must have more time if they insist. *Ordered* to hear the Attorney General. (M. S. Min. 20 Dec.)—On 7 Jan. *Mr. Attorney General* heard at the Table; The claim is to the Barony of Brooke. He founds his claim from Hen. VII. Recites the Pedigree. It will be considered how the law was in this case. L. Coke says this, but he cites no law book for this. Mr. Prynne's book, Title Lords, Plea and Jurisdiction. He says L. Coke had no reason for this.* Mr. Justice Dodderidge, 1642. Mr. Elsing, 4 Ed. 1679. These two books follow Mr. Prynne in this case. Mr. Selden's book, three times, the Baronage of England, fol. ; the Baronages were in tenure only. Two times there were Barons by Writ only. There were many persons summoned as the father, but none of the descendants. This is a personal summoning of one person to one Parliament, and mentions nothing of continuance. He recites the case of Nevill to the Barony of Lord Latimer. This Barony may be in suspense or in abeyance; and this is 170 years, and Elizabeth's death is 130. His accepting a Patent for Brooke of Beauchamps Court should be a kind of an extinguishment of the other Barony. *Mr. Attorney* asked one question concerning the Barony of L. Latimer. Elsing's Book, I find it, and by an ancient book of the Heralds; the relation (*sic.*) *Sir Thomas Powys*, for Petitioner, names several Barons that now sit upon the same title as this is, by Writ. The Precedents have followed L. Coke's Reports. The L. Clifford's case in full for us, which is now in the E. of Thanet. The Barony of

* See p. 137, &c. (1658 Ed.)

1694. — No. 859. Basing, now in the Duke of Bolton. The Barony of Roos *in* E. Rutland. *Mr. Northey* heard for Petitioner. *Sir Bartho: Shore* heard in answer to Powys and Northey. There is none can claim this *ex debito judicii.* Ordered that the Report be made Thursday next (MS. Min., 7 Jan.)—On 10 Jan. the L. Keeper reported. *Moved* to report to His Majesty that the Petitioner has no right to the title of L. Brooke. *Moved* to make a full report to His Majesty of all that is found in this case. After Debate, the question whether the Petitioner has a right to a Writ of Summons to Parliament was negatived; Tellers, E. Manchester, E. Normanby. The numbers of the Division are not given (MS. Min., 10 Jan.).—On 12 Jan. the Select Committee appointed on 11th to prepare the Address to the King on his Reference (L. J., XV. 459) met, (M. Normanby in the chair), and the King's Reference was read. The Reference in the case of L. Willoughby, of 1 March 1625, read. *Ordered*, that the Clerk give an account of the References from Charles I. or Charles II., and what Answers have been upon them (Com. Book, 12 Jan.).—On 16 Feb. the cases of L. Freschville, 20 Feb., 6 March 1677, V. Purbeck, 9 July 1678, and L. Fitzwalter, 20 Feb. '67/8, 29 April '68, 14 Feb., 8 March '68/9, *and 10 Nov.* '70, were read at the Select Committee (Com. Book, 16 *Feb.*).—*On 20 Feb.* the Select Committee was ordered to meet, but did not do so again (L. J., XV. 500); and it was *moved* that a day may be appointed for E. Thanet and others to offer what they have in respect to descents of Baronies by Writ. Agreed to (MS. Min., 20 Feb.).—On 8 March the House was *moved* to proceed in consideration of *the* case of the Barons by Writ. The Order made in Mr. Verney's case was read. *Moved* that Mr. Attorney General state the case to the House. The Order made in E. Thanet's case, claiming the Barony of Clifford, was also read. *Moved* that the Lords who move this business do show a distinction between Sir Richard Verney's case and the claim of the E. Thanet. *Moved* that a day may be appointed for the lords to show how they are prejudiced by the Judgment of this House in the case upon the Petition of Sir Richard Verney. *Ordered* that such Lords who do conceive themselves any way prejudiced by the Judgment of this House, in the case of Sir Richard Verney, shall be heard by their Counsel what *they have* to offer concerning the same, and that Mr. Attorney General be then also heard on behalf of His Majesty. *Moved* that a day be appointed to hear Counsel how the law is in cases of descents of Baronies in Fee. *Ordered* as in L. J., XV. 514. Then *moved* to consider whether the King, by calling a Baron hither by Writ, can give him any place before the date of the Writ. *Ordered* that the House will take into consideration the precedence of such Peers as shall be summoned to this House by Writ in their fathers' Barony, and of the descendants of such Peers.* (MS. Min., 8 March).—On 12 March, *moved* to hear Counsel to this point, whether, if a Barony by Writ, and that descend to a daughter, the descendants of that daughter of right can claim a Writ of Summons. Counsel called in. *Mr. Finch*, for E. Thanet, Monmouth, Abingdon, Willoughby d'Eresby, &c.: If a Barony descend to two females, what shall become of that Barony. If it comes to one sole, we think she has a right to a Writ; and I think this is grounded upon law. If a Summons here by Writ do not make an inheritance, he is only a Peer at will. If there be several daughters, the Honour cannot be lost, though it is in suspense. There is but one way of losing

* For further proceedings on this point, *see* No. 844.

1694. — No. 859.

an Honour, and that is by Attainder. *Sir Thomas Powys* cites the several lords concerned in this case. *Moved* that Mr. Attorney be heard. Hearing adjourned (MS. Min., 12 March).—On 16 March *Mr. Attorney General* heard: The Counsel the other day considered the effect of this Writ. Anciently, until King James, no Baronies but by tenure, and then came in Baronies by Writ. The Writ has no words of inheritance in it. It is renewed every Parliament. My Lord Coke, 1st Inst., says, A Barony by Writ and sitting [in] Parliament creates an inheritance. L. Coke is the only author in law that says so. He cites no authority for this,—other persons have said. Mr. Prin (called the Plea for the House of Lords) takes note of this of L. Coke. The bare directing of a Writ, and sitting in Parliament nobody will say gives an Estate of Inheritance and a Fee Simple. If a Fee Simple at this day, it must have ever been a Fee Simple. In Hen. III., Edw. I., Edw. II. and Edw. III. there are many instances where the father has been summoned and the son omitted, the father and son summoned and the issue omitted. The first case of note, 19 Edw. II., the case of Thomas de Furnifall. Mich. term, 19° Edw. II. Every Baron was to be amerced a like proportion. He pleads he is no Baron, nor holds any lands by Baronage. If a Barony now it must have been then. 42 a Treaty of the Barons, and Elsing's Book. If a Barony in Fee, a descent through one single daughter has been a claim to the Crown for a Barony. The Case of L. Fitzwalter. To consider whether the case of a sole daughter, [there are] three instances: (1) Barony of Latimer. Wm. L. Latimer left issue one daughter; the daughter's issue one son and daughter, &c. (2) Abergavenny. The case of a sole daughter, 25 May, 3 Jac. I. judged here. (3) L. Clifford's case, being an ancient Barony by Writ. The case will be, what does become, if this be a Fee Simple, what becomes of this Barony in two or three daughters? The consideration is to see what the relation in law is. It cannot go according to inheritance. If it cannot descend, then the understanding of law is to know what becomes of this Barony. The case of the E. of Oxford and the L. Willoughby (1 Car. I.) In the case of Bulbecke, Sandford and Aylesmere (Badlesmere) three daughters were left, and your Lordships let the consideration to the Judges. The Judges said the daughters became incapable otherwise than by the King, and you approved the opinions of the Judges. There are several instances where the King has called the descendants, but I know not of one *de jure;* and, with humble submission, they cannot demand it here. This Barony must revert to the Crown. An abeyance is when no man living has a right to the thing. If a descent, then it cannot be in abeyance. The present [case] is, when all the issue is dead but one, whether that issue may demand it. I think I may say it never was done. By papers there is something mentioned. The E. of Thanet's Case. He applied to this House. The Countess of Burlington, she petitions. The Lady not obstructing the claim, it was referred to the Committee for Privileges, and the Committee reported the Barony belonged to E. Thanet. This is a case not contested, and heard but of one side. This was an ingredient in Sir Rich: Verney's case. He claims as heir of the surviving daughter. We hope your Lordships' opinion [will be that] without the King's favour there is no right to a Barony. *Mr. Finch*, in reply to Attorney General: In the Writ there are no limitations of an Estate at all. L. Coke saying, and the proceedings since approves the authority. A bare Summons makes no Estate, but a Summons and sitting makes an Estate and a Fee Simple. Several Abbots have been excused. A Serjeant called by Writ. He

1694. — No. 859. is not a Serjeant, but he must accept that Writ. Opinion of the Parliament, 8 King James, L. Delawarr's Case. 1673, Barony of Clifton judged in the Lady O'Brian. *Sir Thomas Powys*, also in reply: This is the case of several Baronesses. Case of Longueville to Barony [of] Ruthen and E. Kent in 1640. *Moved* that the Heralds give account of the Barony of Conyers, Barony of Roos, St. John of Basing. *Mr. King*, the Herald, called in and asked touching the descent of the Barony of Conyers: There were three daughters, as in the printed Case. I mean restored by some declarative act under the Great Seal. Asked concerning L. Roos: It is as in the printed paper. When died Isabel? We do not find when she died, or whether she survived I cannot tell. Geo[rge], the son, did not sit in Parliament. It is mentioned in Sir Wm. Dugdale's Baronage. Asked, St. John of Basing, how do you find he was summoned? In right of his wife, by Summons, we find he was summoned. I did not expect to be asked these things. *Moved* that the Heralds attend with their books. Debate adjourned, and Mr. King to bring his proofs of the Paper delivered this day (MS. Min., 16 March).—On 19 March the *Heralds* were heard in relation to Baronies by descent whose ancestors were called by Writ. They were told that there has been a representation of some pedigrees. First is St. John of Basing: We do not find such a person in our books as St. John of Basing. The Pedigree says St. John of Basing had issues, but not summoned. He was summoned in right of his wife. D. Bolton was created by Letters Patents. Hen. VIII. 30. [L. Roos. We find L. Roos had issue.]* *Mr. King* heard: Sir Wm. Dugdale's Baronage, Vol. I. 464, says as in the printed paper. He does not find Tho: de Poynings was summoned to Parliament. *Sir Tho: St. George:* I believe he does say so. We have the Summons to Parliament of that year, wherein there is nothing mentioned. *Heralds:* L. Roos. We find he died 1 Edw. IV. His mother lived after him, and so it could not be *jure matris*. We do not find George was summoned to Parliament. He was attainted. *Mr. King* does not find he was restored. He is paled next place but one to the Earls. *Heralds:* L. Conyers. We have nothing to object against this. L. Ogle. This is descended to the half blood. *Mr. King* reads the copy of a Patent. The Heralds withdrew, and the House went into debate of this matter. *Moved* to put this question, or declare it, Whether a person summoned to Parliament by Writ, and sitting there, and leaves issue two or more daughters, who all die except the issue of one of them, whether that issue has a right *de jure* to demand a summons to Parliament? *Moved* to adjourn and let this matter fall. *Moved* to consider how this case differs from Mr. Verney's. Question as to adjourning the House negatived. *Moved* that the debate shall be adjourned. After debate, question put, Whether the debate upon the question proposed, Whether if a person summoned to Parliament, &c. (*see* above), shall be adjourned.† Resolved in the negative by 35 votes to 22: Tellers, E. Rochester and E. Nottingham. After debate, the main question (*see* above) was proposed, and the previous question, Whether this question shall be now put? resolved in the affirmative by 32 votes to 22; Tellers, E. Marlborough and E. Monmouth. Then the main question was resolved in the affirmative (MS. Min., 19 March. *Compare* L. J., XV. 522). Nothing more took place on the subject

* These words are cancelled.

† In the margin are the words "L. Lucas now. E. Kent's Act of Parliament cited." *See* Protest, Paragraph 5, L. J., XV. 523.

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until 9 Jan. 1695–6, when, another Petition of Sir Richard Verney (Annex *a* below) being offered, the question, Whether it should be read, was resolved in the affirmative by 23 votes to 11 ; Tellers, E. Manchester and E. Marlborough. Then the Petition was read and consideration adjourned (MS. Min., 9 Jan. 1695–6 ; L. J., XV. 634). On 17 Jan. 1695–6, the Judgment of the House of 10 Jan. 1694–5 was read. Verney's Petition (Annex *a*) read. His former Petition of 11 Dec. 1694, and the Reference, read. The Resolution of 19 March 1694–5 read. After debate thereupon, *moved* to hear Petitioner. *Proposed* to debate whether the Order of 10 Jan. 1694–5 be a Judgment or not. *Proposed* that this be the question, Whether the Petitioner, Sir Richard Verney, shall be heard at the Bar by Counsel upon this Petition? [Then the previous question was put, Whether this question shall be now put.]* Leave to dissent ; resolved in the affirmative by 47 votes to 20 ; Tellers, L. Ferrers, L. Herbert. *Ordered* that Petitioner and King's Counsel and Heralds be heard (MS. Min., 17 Jan., L. J., XV. 643–4). On 3 Feb. 1695-6, *Counsel for Petitioner* heard : His ancestor was summoned to Parliament in 3, 6 and 7 of Hen. VIII. This came to a single daughter, who was married to Sir Foulke Grevile. We are prepared to make out our pedigree without all objection. We have full proof by Inquisitions *post-mortem* and all other ways. We are ready to read all these things. *Mr. Solicitor :* I have seen the Pedigree. We agree it, it being allowed and signed by the Heralds, who are the King's officers. *Sir Thomas Powys :* If this be allowed, they ought to show wherein we are not entitled to this honour. *Mr. Northey :* If they admit we were called in 7° Hen. VII. Mr. Attorney and Solicitor have seen all the evidence. *Moved* to prove all the Pedigree, &c. Counsel withdrew. *Moved* that Mr. Verney do make out his Pedigree by the Heralds, or that the House agree that the Pedigree is right. The House agreed that the Pedigree of Sir Richard Verney is true, as stated by him, the proofs of it having been made out here formerly. The House agreed that Sir Richard Verney's Pedigree is truly set forth, the same having been formerly made out by proofs in this House. Counsel called in again. *Mr. Solicitor :* It is the same case as it was upon the other Petition. If the Petition vary at all from the former, we are ready to go on ; otherwise we cannot go on, it having been heard and judged already. *Sir Thomas Powys :* This differs from the former. Instances the case of L. Willoughby d'Eresby. *Mr. Northey :* We presume our former miscarriage was upon misstating our title as L. Brooke. Reads the Pedigree as set forth in the former Petition. Reads the last Petition to show the difference of them. We think [it is] a perfect new case as it now stands. *Sir Thomas Powys* heard again as to the reason of leaving out "L. Willoughby" in the former Petition. *Mr. Solicitor :* We admit what they have said as to the Writ to be true ; and he mentions both Petitions, which are just the same, the Petitions being both for the same thing. Recites the Judgment of the House. The prayer of both the Petitions are alike. *Mr. Cooper,* for the King : The first Petition and this are perfectly the same, and therefore they ought to show why the former Judgment should not bar them. *Sir T. Powys* and *Mr. Northey* heard again as to the difference of the Petitions. *The King's Counsel* insist it is the same claim as in the former Petition, and the former Judgment is a bar in this case. Counsel withdrew. Speaker reported. *Moved* to hear the Heralds

* These words are cancelled.

1694. — No. 859. upon this Writ of Summons. *Moved* that the Plea of the King's Counsel in bar of hearing may stand. The case is whether the Plea in bar shall be overruled or not. The Journal, 6 Hen. VIII. Dominus Broke present on 9, 10, 11,* 12, 13, 18 Feb., and in several places after, 5, 7, 15 March (*see* L.J., I. 20–33). House *moved* to hear L. Brooke, he thinking himself concerned upon reading the Journals that Mr. Verney is to sit as L. Brooke. After debate, *moved* to call in the Counsel to see the Writ. *Moved* to send for the Writ. The Writ was brought in, being a paper copy. *Mr. Gregory King* was called in and sworn. Says he produced the Writ and this is a copy of the Roll in the Chapel of the Rolls, and it is a true copy. The Writ was read. *L. Brooke* desires to be heard by his Counsel, but declares, if he does not claim to be L. Brooke, and the former Order confirmed, he desists from his motion. *Proposed* to affirm the former Judgment of this House as to Sir Richard Verney's claim to the title of Lord Brooke. *Moved* to declare that, according to the former Judgment of this House, Sir Richard Verney has no right to a Writ of Summons to Parliament by the title of L. Brooke, *Question proposed*, Whether these words shall be added to the last Judgment, "*by the title of* L. Brooke"? *Question* That, according to the former Judgment, &c. (as above). Previous question put and resolved in the affirmative. Main question resolved in the affirmative. Then Counsel was ordered to be heard on the last Petition, and the Heralds to attend. A Committee was appointed to view the Entry to be made of this day's work. A letter was offered to be read, being delivered to the Speaker. *Agreed* that the Speaker open the letter, and declare the name in it. Being opened, there was no name. It was delivered to the Clerk and read. (M.S. Min., 3 Feb. 1695–6).—On 13 Feb. 1695–6, *Sir Thomas Powys* was heard: Our ancestor was summoned to Parliament three times by Writ; and this creates a Barony in Fee, and is descended on us. We claim a title to the Barony. Our Petition does not relate to the Title, but to the thing, the Barony. We wait to hear what the King's Counsel may say in the matter. We have been very careful to search in relation to Baronies since the war in Hen. 5, the battle at Easem (? in Hen. 3, the Battle of Evesham). Since Edw. IV. *there* have been but 46 Baronies by Writ:—Eight extinct for want of issue, four extinct by attainder, twenty-four now in being, three enjoyed by Peers where there were daughters, and the King settled on one daughter, four in abeyance [between] coheirs, two now lodged in single heirs Wentworth and Lady O'Brian Clifton, and this, in dispute, makes up the number. The case of L. Longueville, 1640. He petitioned for the Barony of Ruthen. The E. Kent thought this impeached his title. The Lords ordered him to alter his Petition. He claimed *then* L. Gray. This seems very like this case. *Mr. Northey* on the same side: We are now upon a right, whether we have a right to a Writ of Summons. We are lineally descended from Sir Robt. Willoughby. How the Writ shall be, that we leave to your Lordships. We claim Lord Willoughby Brooke was only for extinguishing (? distinguishing). We think we have very good instances to claim L. Willoughby. *Sir Thomas Powys:* We desire the King's Counsel may show whether we have not a right. *Mr. Solicitor:* We say the Petitioner has no right to sit in this House. This relates to your Lordships' Privileges; (1) as to your freedom from arrest, the Statute for raising soldiers. *Mr. Cooper*, also for the King: They do what they blame us [for]. We say they must have the title of Brooke, or no title at all. All the

* This is a mistake. There was no sitting on that day, which was Sunday.

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Writs are the same, directed Roberto Willoughby de Broke.". Will you have the Christian name? No. Then why the surname? Why must this be part of the title? He is in the Journal "Dominus Broke," and by this he must stand. The question is whether the Petitioner has proved his ancestor sat here without any limitation, or that he *de jure* can claim a Writ. I take it that originally Peers sat here in right of their estates. I do not say a non-claim can bar. *De jure*, he cannot claim a Writ. Counsel withdrew. *Moved* that the Counsel do not speak against the Order of this House. *Moved* to hear what the Counsel can say to the Order and Judgment. After debate, this question was *proposed*. When the Counsel are called in, they shall be told they are not to speak against the Judgment of this House of 19th March last. Counsel called in again. *Mr. Cooper* went on as before: The other Counsel show how Baronies, when they come into one female, the King has granted that Barony. In some cases the King has not done it. It is in the case of my Lord of Oxford, in the three Baronies, Sandford, Bulbecke, and Bidlesmere*; and from that Report they are in E. Oxford. Counsel withdrew again. *Moved* to adjourn the House. *Agreed* that the Counsel be called in again and go on, which was done. *Mr. Cooper* went on as before. *Sir Thomas Powys*, in reply: We have heard something we thought your Lordships would not have permitted. Recites several Baronies by Writ by name, and who they are in. Recites the L. Norris' case of Ricolt. This was the name of the person where the female has carried. The Barony of Clifton. *Mr. Northey*, also in reply: We move your Lordships in a matter of right to be a Peer. Selden's Tit. 644. Quotes matter of fact. The case of E. Oxford we think is for us; and we may rely on your Lordships' Judgment, which is for us. Counsel withdrew, and it was *moved* to call in the Counsel again, and hear Mr. Solicitor to answer the precedents cited by the Petitioner's Counsel, which was agreed to. The Counsel being gone, after some time the House was informed the Counsel were come again. Counsel called in again, and *Mr. Solicitor* heard as to the Barony of Latimer: There were many precedents reported to this House and mis-stated, as in the case of Bergavenny. The E. of Berkeley's case. He comes under the heir male, and that's against them. The case of L. Paget is plain against them. As to the other cases, I never heard of them. The Heralds must answer to them. The Petitioner, if he has right, must be called L. Brooke. *Mr. Cooper* cites the precedent in the Journal of the sitting of Petitioner's ancestor. *Sir Thomas Powys* cites Dodderidge's Book for what he has said, and reads the case out of the book. That of L. Paget I did not cite, but it is in this book also. Counsel withdrew. *Moved*, That the Report be made on Saturday next. After debate, the *question* was put whether this House shall go on now, and resolved in the affirmative by 43 votes to 31. Tellers, E. Manchester and L. Ferrers. *Moved* that the Report be made presently. The Speaker reported in part, and then it was *agreed* to set aside the Report, and went into debate. *Moved* to have the Order of 19 March 1694–5 read. *Question proposed*, Whether the Petitioner has a right to a Writ of Summons to Parliament by the title of L. Willoughby? *Question proposed*, Whether this Petitioner has a right to a Writ of Summons to Parliament? *Question put*, That by what has been made appear to this House, the Petitioner, Sir Richard Verney, has a right to a Writ of Summons to Parliament by the name and title of Willoughby de Broke. Resolved in the affirmative (M.S.

* ? Badlesmere. See p. 405.

1694. — No. 859. Min., 11 and 13 Feb. 1695–6 ; L. J., XV. 668.) On 14 Feb. 1695-6, upon reading the Judgment made yesterday. a draft of a Report was offered, and a Committee appointed, who drew up an Address to the King on his reference. (M.S. Min., 14 Feb. ; Com. Book, 15 Feb. ; L. J., XV. 671, *in extenso*). Sir Richard Verney took his seat as L. Willoughby de Broke on Feb. 27 (L. J. XV. 684).]

Annexed :—

(*a*.) 9 Jan. 1695–6. Petition of Sir Richard Verney, Knt., for a Writ of Summons. L. J., XV., 634, *in extenso*. *See* Notes above.

860. Dec. 11. Perjury Bill.—Amended* Draft of an Act making wilful [and corrupt] Perjury, *or subornation of Perjury*, in certain cases, to be Felony. It is as follows :—Whereas divers innocent persons have [of late years] *in former reigns in all times* been maliciously and falsely accused and prosecuted for sundry crimes and offences for which, by the laws of the land, they have either suffered loss of life and forfeiture of estates, or have been brought in great danger thereof through the malicious [or corrupt] Perjury *of witnesses*, in which cases the law hath not yet provided any *sufficient remedy*, so that the said horrid offence of wilful [and corrupt] Perjury is likely to be more frequently committed, to the great endangering of the lives and estates of many of [their Majesties] *his Majesty's* good subjects. For prevention of the said horrid and desperate practice for the time to come. Be it enacted by the King's [and Queen's] most excellent [Majesties] *Majesty*, by and with the advice and consent of the Lords Spiritual and Temporal and Commons assembled in Parliament, and by the Authority of the same That, from and after the *first* day of *March* in the year of Our Lord *one thousand six hundred and ninety-four* if any person *or persons* whatsoever, either by the subornation, procurement, or means of any other, or by his own act, consent, or agreement, shall commit wilful [or corrupt] Perjury, whereby the loss of life of any of the Subjects of this Realm shall ensue or be brought in danger, in every such case such wilful [or corrupt] Perjury shall be adjudged and taken to be Felony, and the Offender therein, as also the *Suborner or* Suborners and [wicked] *Procurer or* Procurers of the same wilful [or corrupt] Perjury, being duly and legally convicted or attainted, shall suffer death as Felons without benefit of Clergy.† And be it further enacted by the authority aforesaid, That as well [their Majesties] *his Majesty's* Court of the King's Bench at Westminster, as also the Justices of Assize, Oyer and Terminer and Gaol Delivery in their respective Courts shall have full power and authority, by virtue of this present Act, to enquire, hear and determine of such offences, and to give judgment and to order and award execution thereupon as in other cases of Felony. [Read 1ª this day, and the Lords summoned for the Second Reading, and the Judges to attend and to have a Copy (L. J., XV. 443).—On 15 Dec., in C. W. H., L. Cornwallis in the Chair, the Bill read through. Title and Preamble postponed. First enacting Clause read. *Moved* to hear the Judges as to the alteration of the law in this case, as to the inconvenience in this case in relation to the laws as they now stand. ***Holt, C. J.:*** There have been malicious prosecutions. I observe people are not willing to prosecute. It will be a very great discouragement to prosecution. ***Treby, C. J.:*** Inconveniences in a law are hard to see. I am much

* Additions in italics ; omissions in square brackets.

† Here Clauses A and B (Annexes *b* and *c*) are to be added.

1694. — No. 860.

afraid, instead of curing evils, it may enlarge them. It is very hard to convict persons. If this Bill pass, it will be harder. We have much ado to bring on persons to prosecute. *Eyre, J.:* The inconveniences are so great that I fear it will discourage all prosecutions whatsoever. We find it difficult to find prosecutors in housebreaking and felony. *Powell, B.:* The offence is of the worst nature. It will deter prosecutions in housebreakers, robbers and clippers. I am afraid it will produce more inconveniences than good. *Proposed* to take further time to consider of this Bill. After some time spent in debate, progress was reported. House to be again in Committee on Tuesday next, and in the meantime the Judges to consider what ways they can find to quicken prosecutions which they think may be discouraged if perjury be made felony by this Act. (M.S. Min., 15 Dec.; L. J., XV. 445).—On 19 Dec., in C. W. H., same Chairman, first enacting Clause read. *C. J. King's Bench* heard: We have met together, and we observe persons are not quick to prosecute. (1.) We propose whether it may not be proper that, if any person know of treason and then withdraws, he may be guilty of misprision. (2.) We propose whether poor persons that prosecute shall not be reimbursed their charges out of the person's estate that is convicted. *Moved* that the Judges draw Clauses upon what they have proposed this day in the Committee. *Ordered* that the Judges do prepare some Clause or Clauses in order to quicken such prosecutions as they apprehend may be discouraged by this Bill. To bring in a Clause about misprision, and a Clause for encouragement of Witnesses other * * *. Progress reported (M.S. Min., 19 Dec.).—On 31 Dec. in C.W.H., same Chairman, the Clauses drawn by the Judges (Annex *c*) offered and read. *L.C. Justice* heard to the Clause. Some words were added to it, and then read and agreed to. Then the amendments noted in the Text above, in the first Clause, were made. That Clause was read again. The Clauses drawn by the Judges (Annex *c*) were read. *Moved* that a day be appointed after Christmas, and the Judges in the meantime to consider of the Bill, and bring whatever they shall think fit to be added to it. *Agreed* the Judges may offer what they shall think fit upon the Debate. Progress reported (M.S. Min., 21 Dec.).—On 9 Jan., in C.W.H., same Chairman, a Clause drawn by the Judges (Annex *b*) was offered and read. The Queen, having died, was struck out of the Bill. The first enacting Clause read as amended. The Clause drawn by the Judges (Annex *b*) read. An Amendment made to it. Agreed. First enacting Clause, as amended, agreed to. The Clause (A) brought by the Judges this day (Annex *b*) agreed to be added after "Clergy." The Clause (B) agreed to the last day (Annex *c*) read. Agreed to follow the other Clause. The last Clause in the Bill, the Preamble and the Title read, amended as noted in the Text, and agreed to; and Bill reported with Amendments. A debate arising upon the Amendments, the Bill was recommitted to C.W.H. on the debate (M.S. Min., 9 Jan.).—After an adjournment of C.W.H., the House was moved on 16 Jan. to go into C.W.H. on the Bill, and on 18 Jan., in C.W.H., same Chairman, the Committee went into debate concerning the King's power of pardoning. *Moved* that the King may have power to pardon anything but Treason. *Agreed* a Proviso to be brought in. After debate, this question put, Whether there shall be a Clause to exempt the King's power of Pardon in cases of High Treason. Resolved in the negative. Report that no new amendments had been made. The former amendments to be considered (MS. Min., 16 and 18 Jan.). On 19 Jan. the amendments were agreed to, and, after

1694. — No. 860. debate, the question, Whether the Bill shall be engrossed, was negatived and a protest entered (MS. Min., 19 Jan.; L. J., XV. 465, 466).]

Annexed :—

(*a*) 19 Jan. 1694–5.—Lords' Amendments in C. W. H. agreed to by the House this day. L. J., XV. 465. They are noted in the Text above.

(*b*) 9 Jan.—Amended* Draft of Clause, marked A., as follows:—Provided always and be it enacted by the authority aforesaid that when any prisoner or prisoners shall hereafter be tried for treason or felony, and he or they shall, during his or their said trial desire *all or* any part of the evidence then given against them to be set down in writing, that then the Judge or Judges or Commissioners of Oyer and Terminer or Gaol Delivery before whom the said trial shall be, shall, in the presence of such prisoner or prisoners, and before he or they are taken from the Bar, cause *all or* such part of the said evidence to be set down in writing, as such prisoner or prisoners shall desire; and the said Judge or one of the said Judges or Commissioners of Oyer and Terminer or Gaol Delivery shall subscribe his name thereunto, *and shall* cause such part of the evidence so set down in writing and subscribed as aforesaid to be [annexed to the Indictment upon which the said trial shall be] *filed in the said Court*, there to remain as a testimony of what was then sworn against the said prisoner or prisoners; and that no assignment of perjury whereby any person or persons shall or may be brought within the penalty of this law shall be made in or upon any part of the evidence given against such prisoner or prisoners, upon his or their trial for treason or felony, except only in such part of the evidence as shall be set down in writing and subscribed in manner as aforesaid [offered by the Judges this day and agreed to after amendment, to come in after "Clergy." MS. Min. *See* Notes above.]

(*c*) 9 Jan. 1694–5. Amended* Draft of Clause, marked B., as follows :—And to the end that there should be no *omission* of due and just prosecution, but that all persons *should, according* to their duties [make prosecution of all persons accused for any treason or felony] *prosecute all* [*such*] *that are guilty of any felony*, Be it enacted by the authority aforesaid that if any person who [hath given] *hereafter shall give* any information to any [Privy Councillor or Secretary of State] *Judge* or Justice of the Peace of any [treason or] felony *committed or done or hereafter to be committed or done* and shall be afterwards required or bound to *prosecute or* give evidence of such matter whereof he hath given information, shall voluntarily neglect or refuse to *prosecute or* give such evidence [if it be the said offence be treason, it shall be accounted and adjudged to be misprision of treason, and if felony, then] it shall be accounted and adjudged misprision of felony, and the offenders in such case shall incur the respective penalties of misprision of [treason and] *felony*. [Agreed to be added to the Bill this day after the preceding Clause (Annex *b*). It was brought in by the Judges on 21 Dec. and amended. M. S. Min. *See* notes above.]

861. Dec. 14.—Tattersall *v.* Fitzherbert.—Petition and Appeal of Thomas Tattersall, Clerk. Richard Hine, late Rector of Grittleton

* Additions in italics; omissions in square brackets.

1694. — No. 861.

Parish, Wilts, purchased the perpetual Advowson of his Church from Thomas Tully, Gent., for 340*l.*, in the name of Edward Jones and Nathaniel Wight, his Trustees, both since deceased; and on marrying Ann Knightly settled the Advowson upon Trist Ladkins and Boote, in Trust for her, to be sold for a Jointure for her, unless he redeemed by settling lands of the clear yearly value of 80*l.* upon her. The Deed was executed by all the parties except his own Trustees. On Hine's death, his widow presented Petitioner to the benefice in accordance with the desire expressed by her husband on his deathbed; but Henry Fitzherbert, Clerk, procured William Jones, brother and heir of the late Trustee Edward Jones, to present him, on the grounds that the Deed was invalid as the Trustees had not sealed it, and also that Hine had settled the lands of 80*l.* a year upon his wife. A *Quare Impedit* was brought against Petitioner, whose Bill in Chancery to be relieved against it was dismissed. The lands settled were not of the clear value of 80*l.*, and the Deed ought to be looked upon as good. Appeals against the dismission. *Signed* by Petitioner; *Countersigned* Wi: Williams, Wm. Banastre. [Read this day. L. J., XV. 444. On the hearing on 24 Jan. *Sir Wm. Williams* and *Sir Thomas Powys* appeared for appellant, and *Mr. Solicitor* and *Sir Bartholomew Shore. Williams* said, Mr. Hine died intestate. Mr. Fitzherbert was made an Executor. This is the case of all the clergy of England. MS. Min., 24 Jan. Judgment affirmed and Appeal dismissed. L. J., XV. 469–70.]

Annexed:—

(*a*) 5 Jan. 1694–5.—Answer of William Jones, Esq., and Henry Fitzherbert, Clerk. The Decree complained of is just. *Signed* by respondents and *countersigned* J. Jekyll. *Endorsed* as brought in this day. *See also* L. J., XV. 470.

(*b*) 9 Jan. 1694–5.—Petition of Appellant for a short day for hearing. L. J., XV. 456.

(*c*) 11 Jan. 1694–5.—Petition of Respondents for postponement of the hearing, as Fitzherbert lives near Malmesbury, and is unable to travel, and Jones lives in Monmouthshire. L. J., XV. 458.

(*d*) Affidavit of Henry Palmer, of Chippenham, Wilts, Chirurgeon, that Fitzherbert is very lame, and can only move about his house at Luckington with a crutch. *Sworn* on 9 Dec. before Anthony Talboys. [Enclosed in preceding.]

862. Dec. 14.—Kerridge's Estate Bill.—Amended Draft of an Act to enable Thomas Kerridge, Esq., a minor, to purchase divers manors, lands and tenements that lie adjacent to his Estate in the County of Suffolk. Samuel Kerridge, late of Shelley, Suffolk, Esq., was seized of the following property:—

(1.) The Manor or Lordship of Shelleigh or Shelley Hall, the Capital Messuage of Shelley Hall, the Rectory of Shelley, and farms, &c. in Shelley, Layham and Polstead, Suffolk.

(2.) Lands, &c., in Coddenham, Creating Saint Mary, Creating All Saints, Bricet or Great Brissett, Ringsale, Trimley St. Mary, Trimley St. Martin, Walton and Bildeston, Suffolk.

(3.) Messuage in Broad-street, in the parish of St. Peter the Poor, London.

(4.) Property in Hampstead.

No. 1 was settled on himself for life, then, with the exception of the capital messuage, on his wife Mary for life, for her jointure, then on their sons in tail male, then on Sir Thomas Garrard, of Greenstreet,

1694. — No. 862. Eastham, Essex, Bart., Jacob Garrard, Esq., his son and heir, Sir Robert Kemp of Ubbeston, Suffolk, Bart, and Thomas Raymond of Gray's Inn, in trust to raise portions for daughters, failing issue male. Remainder in fee to the right heirs. Samuel Kerridge was seized in fee of the rest of the property, and left two sons, Thomas and Samuel, to whom and their heirs successively he left by his will dated 20th Sept. 1677 all his property except No. 3, which he left to Samuel and his heirs, failing whom to his own right heirs. Samuel died under age, without issue. Thomas is now a minor. The Bill is to vest the whole of Thomas's property, and the reversion of the jointure estate in Robert Kemp of Ubbeston, Suffolk, Esq., Richard Budle of Hadleigh, Suffolk, Gent., and Clement Martin of Shelley, Gent., Trustees to sell or mortgage Nos. (2), (3) and (4) to raise 9,200*l.* for the purchase of the Manors or Lordships of Reydon Hall, Marks or Martins, Sullies or Sulvies, the property of Maurice Shelton and others, which lie close to Thomas's property, and for which his mother had agreed to give 9,000*l.* The 9,200*l.* to be made up, if necessary, by the mortgage of No. (1), and of the lands to be purchased. Thomas to have power to surrender such property as is copyhold, as if of age. The surplus in the Trustees' hands to go to Thomas. *After the money* has been raised the property to be held in Trust for Thomas. A Clause to enable Thomas to raise a jointure for a wife if he marry while a minor is struck out, and a Clause (Annex *c*) for his sisters is to be inserted here. The usual General Saving Clause follows. [Read 1ª this day. L. J., XV. 444. Rejected by the Commons on Second Reading. C. J., XI. 224. *See also* M.S. Min., 9 Jan., and Com. Book, Jan. 11, 28, 29.]

Annexed :—

(*a*) 28 Jan. 1694–5.—Consent of Mary Kerridge, the mother, and Sarah and Mary Kerridge, the only sisters of Thomas Kerridge, to the Bill, *signed* by them, *attested* by Clement Martin and Will: Betts, and *dated* 19 Jan. [Produced before the Select Committee this day. Com. Book, Jan 11 and 28.]

(*b*) 29 Jan. 1694–5.—Amendments made in Select Committee this day. They are mainly to leave out all mention of the Queen, to insert the date of the commencement of the Act, to add the names of Trustees, and to substitute the clause below for one for a jointure for a wife. [Com. Book, 29 Jan.]

(*c*) 29 Jan. 1694–5.—Draft Clause for the payment to Sarah and Mary Kerridge, Thomas's only sisters, of 4,938*l.* 6*s.* 10*d.* left them by their father's Will and raised out of his Estate by his Executor, Sir Thomas Garrard, late of Langford, Norfolk, Bart., to be paid by Dame Sarah Garrard, his Relict and sole Executrix. [Added this day in Committee. Com. Book.]

863. Dec. 18.—Call of the House (Bp. Bristol).—Letter from Bp. Bristol to Sir John Sommers, Knt, the Lord Keeper, in answer to his letter requiring the Bishop's attendance at the House on this day (*see* L. J., XV. 437–8). He had been suddenly surprised with such a distemper in his head as for some time much hindered both his sight and speech. Cannot take so great a journey, and continue in a place where he always had bad health, without danger. Prays he may not be called upon to send two witnesses, as only physicians were sufficient witnesses of his case, and he could not get two to leave their employment. *Signed* Jo: Bristol. *Dated* Dec. 8. [Read this day. L. J., XV. 447.]

Annexed—

(*a*) Draft of letter ordered to be written this day by the Lord Keeper to the Bp. Bristol, to signify to him that unless he can attend he must send two witnesses. L. J., XV. 447.

(*b*) Letter from L. Chandos to the L. Keeper in answer to his letter of the 14th inst. (*see* L. J., XV. 437–8). He was preparing for his journey to London when his horses broke down, for which involuntary feofaile he humbly begs compassion and pardon, and intreats his Lordship to interpose a few of his own prevailing words on his behalf. *Signed* Chandos. *Dated* Hereford, 10 Dec. [Read this day. L. J., XV. 447.]

(*c*) Letter from L. Ashburnham. Was detained at Ashburnham at the King's arrival from Holland by his wife's illness, as he is now by his own. Has always attended the service of the House with much pleasure. Is unable either to go in a coach or on horseback. Has sent up two servants to be examined. *Signed* Ashburnham. *Dated* Ashburnham, 14 Dec. [Read this day. MS. Min. *See also* L. J., XV. 447.]

(*d*) Letter from E. Huntingdon, in answer to letter requiring his attendance (*see* L.J., XV. 437–8). Had made a proxy before receiving the letter, and is detained by a very urgent occasion. *Signed* Huntingdon. *Dated* Donington, 15 Dec. [Read this day, and ordered that the consideration, whether a proxy sent by a Lord shall be an excuse for his absence, be on the 1st sitting day after Christmas. (MS. Min., L. J., XV. 447.) Nothing further appears.]

864. Dec. 19.—The King and Queen *v.* Tucker. (In Error.) Copy of Writ of Error, and Transcript of Record brought in this day (L. J., XV. 448), and of Suggestion of Error dated 22 Dec. (*see* L. J., XV. 456). Reginald Tucker, Long Sutton, Gent., and Thomas Place, of Edington, yeoman, both in the County of Somerset, were indicted at the Assizes at Wells for High Treason, in taking part in Monmouth's Rebellion, pleaded guilty, and were condemned to death. Tucker appealed on the ground of several informalities in the Commission issued to the Judges, in the indictment, in the proceedings, and in the sentence. The paper is marked with marginal notes by the Counsel of the informalities complained of. [At the hearing on 21 Jan., *Mr. Finch* was heard for the King: The case is whether this indictment was to be reversed for want of these words, "*contra ligeantiæ suæ debitum.** If the thing is expressed in the indictment, it is enough. There is in the indictment enough to show it was contrary to his allegiance. It appears by this indictment all along to be contrary to his allegiance. An alien needs no indictment, for he owes not an allegiance to the King. Cooke, Colvin's Case. *Sir Thomas Powys* on the same side: It is strange these supernumerary words must be in. There is very plainly a charge upon him that he acted so against his allegiance. He was the King's subject, and did owe allegiance. We have many cases where persons were indicted and executed, with this conclusion. Hen. VIII. D. Somerset's Case. Bradshaw and Burton, Eliz. Dyer's Reports, fol. 69. Mr. Hull is in the case and place of a fair purchaser. *Sir Bartholomew Shore*, for

* The Counsel's note on this point is "Does not conclude *contra ligeanciæ suæ debitum*, as the Precedents are, and also the authorities, Co. 7, 6. Dy., 144. Co. Lib., 129. Hob., 271, 3. Inst. 11, &c.

1694. — No. 864. Tucker, instances many cases where it was separated their bodies,* and this is an error in the indictment. The Judgment was wrong in this, because *secreta membra amputentur*† was not in. This, we say, is continually practised. He cites several cases that have this in. L. Stafford's Case. *Mr. Beresford:* This is a case of the first impression (*sic*). These Writs of Error seem to be very contradictory. We are surprised at the novelty of the Writ, not but that we can maintain our reversal. In the cases of the Regicides was this, *Quod secreta membra amputentur.* This was L. Stafford's sentence. Now, as to *contra ligeantiæ suæ debitum.* This is a defect in the vital [part] of the indictment. This is a springe for allegiance. Where there is no obedience there can be no indictment. All books say no indictment shall be supported by implication. Judgment reversing the attainder affirmed. MS. Min., 21 Jan.; L.J. XV. 467.]

865. Dec. 19.—Trials for Treason Regulation Bill—Papers connected with the Bill intituled an Act for regulating of Trials in cases of Treason and Misprision of Treason (comp. No. 798). [The Bill was brought from the Commons this day (L. J., XV. 448. *See also* C. J., XI. 187). It appears from MS. Min. that the First *Reading* this day was on Question, after debate.—On 22 Dec., after the Second Reading, it being *moved* to commit the Bill, a debate arose thereupon, and, after some time spent therein, Bill committed to C.W.H. Then it was *moved* that the House be put into a Committee presently, and carried by 41 votes to 32; Tellers, E. Manchester and E. Kingston. (The proceedings in C.W.H. can be understood by reference to the Act 7 & 8 Will. III., c. 3, as this Bill, though dropped this Session, received the Royal Assent in the following one). In C.W.H. on 22 Dec., L. Cornwallis in the Chair, Bill read through. Title and Preamble postponed. First enacting Clause (§ i of Act) read. A debate arose concerning a copy of the indictment. *Mr. Attorney General* says a copy of the indictment is all outside and inside. Progress reported (MS. Min., 22 Dec). The Order of 3 Jan. (L. J., XV. 454) was made on motion. (MS. Min., 3 Jan).—On 8 Jan., on Order for C.W.H. being read, *moved* that an Instruction be given to the Committee, that nothing in this Bill may weaken or take away any law now in being for the preservation of His Majesty's person. In C.W.H., same Chairman, first enacting Clause read, concerning copy of the indictment. The Judges heard as to the indictment. *Holt, C. J.:* The witnesses are on the indictment, and yet not part of it. *Treby, C.J.*, of the same opinion. There was an exception in Crome's Case about a mistake of the word *Verra* (*Vera*). The other Judges seemed to be of the same opinion. After debate, *proposed* that an amendment be made, that the clerk may not mistake, that the words be added "excepting the witnesses' names." The question was put whether these words shall be added to this Clause, "but not the witnesses' names usually endorsed [on the back side thereof]‡ thereon." Agreed to (§ i, l. 12). A debate arose about the time, 5 days (*ib.*) Agreed to stand as it did. Judges heard as to the errors upon the indictment, how it will evade the trial; that a mistake in writing and form will vitiate the indictment. *Holt, C.J.:* An indictment for High

* Counsel's Note, as to the prisoners' being called upon to plead, is, It should be *separatim allocuti;* for one might plead something in bar, of which the other could not take any advantage, as *autrefoits acquit*, or a Pardon, &c.

† Counsel's Note is, the *secreta membra amputentur* is omitted, as the Precedents are to the Restoration of Charles II.; and so Stam. P. Cr. 182, &c.

‡ These words are cancelled.

1694.

No. 865.

Treason ought to be very exactly framed. The same that will quash an indictment will quash an Appeal. I think we are to take notice of any mis-form for the Prisoner. Before Judgment, the Judges are to take notice of this. The whole Clause as amended was read. *Proposed* that the Bill commence from two years hence. *Proposed* to have a copy of the indictment in English. After debate, Question put whether the words "in English" shall be added to the Clause (l. 11), and negatived by 41 Votes to 33; Tellers, E. Feversham, E. Manchester. *Moved* that the Act shall not commence till after 25 March 1698. After debate, Question, whether 1695 shall stand in the Bill, negatived by same votes, and with same Tellers as in previous Division. *Proposed* that the time be 1698. Agreed to by 41 votes to 34; Tellers, E. Manchester, E. Feversham.* Clause, as amended, agreed to (first part of § i), and progress reported (MS. Min., 8 Jan.)—On 15 Jan., in C.W.H., same Chairman, Clause 2 (end of § i) agreed to. Clause 3 (§ ii) read. A debate arose thereupon, and the Judges heard to the witnesses in cases of Treason, what the witnesses shall be, and to the confession of the party. These words, from "unless the party indicted—shall confess the same," read (lines 6 and 7). Statute of Edw. III. read. Judges asked whether any confession of Treason has been given in evidence. Evidence was taken by confession in the West. Judges heard. *Question:* Suppose there are no witnesses to the fact, yet two or more to the confession of it?—*Answer:* This writing is signed by himself before the Counsel. This is a question I never knew brought into practice. After debate, that part of the Clause relating to confession in open Court, agreed to stand without amendment. Then the rest of the Clause read. After debate, Judges heard on the debate. *L. C. Justice:* I question whether I am not to construe this to two witnesses to the same Act. *Nevill, J.:* I can scarce tell what I shall incline to. *Turton, B.:* I observe a difference between these words and that of Edw. VI. If plainer, it may be very well. *Mr. Baron Turton* and *Powell* heard. *Moved* that a Committee be named to explain this Clause. *Moved* and *agreed* that the Judges bring in a Clause, or mend the Clause to make it clear, upon the debate. Progress reported. The Order to resume the Bill on Thursday was on question, after a motion for Friday, agreed to (MS. Min., 15 Jan.).—On 17 Jan., in C.W.H., same Chairman, *Treby, C. J.*, heard. Offers an amendment in the Clause (§ ii), either by Clause, or amendment in the Clause. A Proviso offered and read. The Clause in the Bill read with the amendment† offered, and agreed to (§ ii). Judges heard as to the taking away the attainder by outlawry. *Holt, C. J.:* This seems to take it away. It seems to me pretty clear that, as this Clause is penned, outlawries are excluded. *Treby, C. J.*, is of the same opinion, that outlawries are totally excluded. Judges heard to an amendment. Instead of "two" (§ ii, l. 5) read "either both of them in the same overt Act, or one of them to one and another of them to the other overt Act of." The whole Clause agreed as amended. A Clause offered by the Judges (Annex *b*) and agreed to be added after "notwithstanding" (§ iv). Next Clause (first seven lines of § v) read and, after debate and motions for rejecting it, agreed to be left out.‡ Next Clause read and agreed to

* This amendment was disagreed to by the Commons, and not insisted on. (C. J. XI. 235.—L. J. XV. 500.)

† Lines 5 and 6, "either both of them—to another overt Act."

‡ This amendment was disagreed to by the Commons, adhered to by the Lords, still disagreed to by the Commons, and finally, on 20 April 1695, the Lords agreed that the Clause should stand with the addition of the words excepting violence to the King's person, inserted between lines 4 and 5.

1694. — No. 865. with a formal amendment (first part of § vii.) Next Clause agreed to (last part of § vii.). Progress reported (MS. Min., 17 Jan.).—On 21 Jan., in C. W. H., same Chairman, the Clause about Overt Act (§ viii) was read and agreed to. A Clause (Annex *c*) was offered to be part of the Bill. After debate, *moved* that the Clerk read it. Clause read, and the Question whether to read it a second time resolved in the affirmative by 33 votes to 31 ; Tellers, E. Scarborough, L. Godolphin. Clause read again. After debate, on question, agreed to stand part of the Bill by 33 votes to 26 ; same Tellers. (§ x, and Annex *c*, below). Line 8, after "whatsoever," add the Clause marked B* (§ x, and Annex *c*, below). Progress reported (MS. Min., 21 Jan.).—On 22 Jan. in C. W. H., same Chairman, a Proviso (§ ix, Annex *d*, below) offered to be part of the Bill. First enacting Clause read. The Proviso offered. read. An amendment made on the Clause, which was read as amended. *Moved* to ask the Judges how the law stands now as to this Clause and the Statute of [Jeofalls]. Judges asked whether, as the law now stands, the Prisoner, after judgment, may not have a Writ of Error in the case of false Latin or misspelling. *Nevill, J.:* He may have a Writ of Error ; for want of form or literal faults he may reverse the judgment. *Powell, B.:* I take it, if a prisoner find a *literal mistake* or false Latin, he may take exception to it. If he comes not before judgment, execution will follow. He may move in arrest of judgment. *Eyre, J.:* Three ways a prisoner may take to quash an indictment: (1) By quashing it for error before. (2) After trial, move in arrest of judgment. (3) When judgment is passed, no way but by Writ of Error, and he may lose in the last. The question whether the Clause as amended shall be part of the Bill resolved in the affirmative by 33 votes to 29 ; Tellers, E. Marlborough, E. Rivers. After Clause B add Clause C (§ ix, Annex *d*, below).* Next Clause read, concerning Impeachments (§ xi). After debate, agreed to by 30 votes to 27 ; Tellers, E. Marlborough, E. Scarborough. The last Clause (§ xii) and the Preamble and Title agreed to. Report that the Bill was ready to be reported with amendments ; report to be made to-morrow (MS. Min., 22 Jan.)—On 23 Jan. amendments and added Clauses reported. The first amendment (the substitution of 1698 for 1695 at the commencement of the Act) read. *Moved*, not to agree to it. *After debate*, question to postpone it negatived by 36 votes, 5 proxies, to 38 votes, 2 proxies ; Tellers, E. Rochester, E. Manchester. After debate, amendment agreed to by 42 votes to 32 ; Tellers, E. Bridgewater, E. Abingdon (MS. Min., 23 Jan.).—On 24 Jan., the second amendment (§ i, lines 11, 12) agreed to. The third amendment, concerning outlawries, read. An amendment or proviso proposed to be inserted instead of this amendment. A Clause offered to be in the place of this amendment was read. The Proviso (§ iii) drawn concerning outlawries was read. The amendment in 1 Skin., l. 17, to substitute "be outlawed or being" for "and," disagreed to. The Proviso and Clause A (§§ iii, iv, Annexes *a* and *b*) agreed to, as also the next amendment.† Clause B (§ x ; Annex *c* ; L.J., XV 470, *in extenso*) agreed to by 31 votes, 3 proxies, to 26 votes, 4 proxies ; Tellers, E. Bridgewater, E. Sandwich. Clause C (§ ix ; Annex *d*, L.J., XV. 470 *in extenso*) read, concerning misnomers, and agreed to by 28 votes, 4 proxies, to 26 votes, 4 proxies ; same Tellers. The last Clause concerning impeachments (§ xi), was agreed to, after debate, by 29 votes to 20 ; same

* In the Act of the following Session Clause C (Annex *d*) became § ix, and Clause B (Annex *c*) became § x.

† *i.e.*, leaving out the first seven lines of § v.

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Tellers (MS. Min., 24 Jan.; L.J., XV. 470). Bill read 3ª and passed, and returned to the Commons, with amendments, on 26 Jan. (*ib.* 472). The amendments are set out in C. J., XI. 226. The Commons disagreed to three of them, viz : (1) the date of the commencement of the Act; (2) the omission of § v ; and (3) the insertion of Clause B as to trials of Peers, (C. J., XI. 235).—On 20 Feb. the Lords insisted on the second and third, but gave way on the first, after debate, by 32 votes, 8 proxies, to 32 votes, one proxy ; E. Scarsdale and E. Manchester, Tellers. (MS. Min., 20 Feb.). The Lords' Reasons are given in L. J., XV. 504. *See also* MS. Min., 22 Feb. On 3 April the Commons resolved to insist on their disagreement (C. J., XI. 293), and the Conference to acquaint the Lords therewith was reported to H. L. on 20 April ; whereupon it was *moved* to desist from the Lords' Amendment for leaving out the Clause for limiting the time for trials for treason (§ v), and that the Judges draw some words of exceptions as to the King's person, and the Judges withdrew. *Moved* to adhere to the Lords' Clause in the Bill, as to their trials (Clause B). *Ordered* that this House doth adhere to the said Clause, for trial of Peers, and all the Lords summoned. *Moved* to have a free Conference with the House of Commons and deliver them the Bill. The Judges, being come in again, offer the words of exceptions which they have drawn, to be added to the Bill, viz., the words "except the Treason or offence do consist in endeavouring or attempting to do any hurt, violence, or mischief to the person of the King" (L. J., XV. 560) which were inserted in the Clause (between lines 4 and 5 of § v). The Bill was then returned to the Commons at a free Conference (MS. Min., 20 April). Nothing further is recorded, but this last amendment, drafted by the Judges this day, is marked, in Annex *e* below, as disagreed to by the Commons.] The papers are as follows :—

(*a*) 24 Jan. Draft Proviso added to the Bill this day on report (MS. Min.). It forms § iii of the Act. L. J., XV. 470. (*See also* Notes above).

(*b*) 24 Jan. Draft Clause, marked A, agreed to this day by the House on report. On 15 Jan. the Judges were ordered to bring in the Clause, and brought it in on 17 Jan. (MS. Min. of dates). It forms § iv of the Act. L. J., XV. 470. (*See also* Notes above).

(*c*) 24 Jan. Draft Clause, marked B, agreed to this day by the House on report (L. J., XV. 470, *in extenso*). Agreed to in C. W. H. on 21 Jan. (MS. Min. *See* Notes above). It was disagreed to by the Commons, but adhered to by the Lords, and forms § x of the Act. (L. J., XV., 501, 504–5, 560 ; C. J., XI. 226, 235, 293, 311).

(*d*) 24 Jan. Draft Proviso, marked C, agreed to this day by the House on report (L. J., XV. 470 *in extenso*). As originally drafted the words "or other defect of form only," afterwards struck out, followed the word "Latin" (lines 3 and 5 in § ix of Act). It was added to the Bill in C. W. H. (MS. Min. *See* Notes above), and forms § ix of Act.

(*e*) 20 April 1695. Copy of the Bill, *endorsed* "as it was returned to the Commons, after the last free Conference, by the Lords, with their amendments, and to which the Commons agreed and disagreed." The Free Conference referred to took place this day (L. J., XV. 560). The Lords' Amendments (C. J., XI. 226 *in extenso*) are inserted in it, and underscored, and the Commons' resolutions on them are noted in the margin. The Bill as

1694. — No. 865. amended agrees with the Act (7 and 8 Will. III., c. 3), except that in § i, lines 11, 12, instead of "but not the names of the witnesses," it has "but not the witnesses' names usually endorsed thereon," with a bar after "names"; the year 1695 appears throughout instead of 1696; the last four lines of § v and the whole of § vi, are wanting; the words inserted in Clause 5 by the Lords on 20 April (L. J., XV. 560 *in extenso*) are included, and marked as disagreed to by the Commons, and § x, similarly marked, precedes § ix. (*See* Notes above).

866. Dec. 20.—Lord *v.* Lord.—Petition and Appeal of Lawrence Lord, Gent. His father, William Lord, held a lease of lands in Little-Tew from Exeter College, which Petitioner, in consideration of 1,700*l.* paid to his father, had renewed by the College in his own name, with his father's assent, though his father retained the lands. Robert Lord, his father's Administrator, sued him for the lease, under pretence that it was fraudulently obtained, and that he was only a Trustee for his father; and obtained a Decree in his favour, ordering Petitioner to account for the estate for over 20 years back. *Signed* by Appellant and *countersigned* Saml. Tryst, Wm. Banastre. [Read *this day.* (L. J., XV. 448). On the hearing on 28 Jan. *Sir Thomas Powys* and *Sir Barth. Shore* appeared for the Appellant and *Mr. Solicitor* and *Sir Francis Winnington* for Respondent. Evidence was read that Petitioner's father had offered him 200*l.* for his interests, and that he had claims on his father. (MS. Min. 28 Jan. 1694–5). The Petition was dismissed, L. J., XV. 473].

Annexed:—

(*a*) 3 Jan. 1694–5. Answer of Robert Lord. The Appellant was only a Trustee. The lease was the portion of the estate principally intended for Respondent. Appellant's brothers William and Edward joined him in paying the fine for the renewal of the lease. *Signed* by Respondent, and *countersigned* Wm. Dobyns. *Endorsed* as brought in this day. L. J., XV. 473.

867. Dec. 21.—Pindar's Estate Bill.—Amended * Draft *of* an Act to compel Edward Williams [and William Williams] [Esqres.] *Esqre.* to bring forth the person of Sir Paul Pindar, Bart. Whereas Sir Paul Pindar, Baronet, an Infant of about the age of nine years, and entitled to [an Estate of Inheritance, as heir of his father, deceased, of about 600*l.* per annum, and to another Estate of Inheritance, as heir of his mother, deceased, of about 300*l.* per annum] *a good and valuable Estate of Inheritance of the part of the father and of the part of the mother*, being, in *or about* the month of June in the year 1690, at his mother's funeral, was by force and violence seized and carried away by [one] Major Edward Williams, assisted by [his Colonel William Williams Esqre.] *diverse armed persons*, and hath been by [them] *him* ever since detained from his relations, and shifted from place to place in several parts of Wales and elsewhere; And Whereas George Weld, Esqre., and Mary, his wife, and Grace Jones, widow, as next friends and relations, *on the part of the father*, to the said Sir Paul have at great charges and expenses [pursued] *prosecuted* all the ordinary and legal methods to get him out of the hands of the person[s] aforesaid by a Writ de Homine [Deplegiando] *Replegiando* in the Court of King's Bench and a Bill in the Court of Chancery, where several Orders were made for producing the said Infant, but, instead of

* Additions in Italics, omissions in square brackets.

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any obedience yielded to the process and Orders of the said Courts, the Messengers and Officers employed to execute the same have been beaten and wounded, in open contempt and defiance of the law; And Whereas the said Infant will, in the month of March next, be of the age of 14 years, and it is highly to be presumed that he is so detained as aforesaid to the end he may be clandestinely married to a daughter of the said Edward Williams, unequally [both] in respect of his Estate [or otherwise]; may it please Your Most Excellent [Majesties] *Majesty*, at the humble suit of the said George Weld and his wife and Grace Jones, on the behalf of the said Sir Paul Pindar, that it may be enacted, &c., That the said Edward Williams [and William Williams or one of them do] *shall* before the *fifteenth** *day of February in the year of our Lord, one thousand six hundred and ninety-four*, produce before and deliver unto *Sir John Sommers, Lord Keeper of the Great Seal of England, or the Lord Chancellor or Lord Keeper of the Great Seal for the time being*, the said Sir Paul Pindar, or in *wilful* † default thereof that [they and each of them do] *he shall* suffer *death as in the case of felony without benefit of Clergy*. And be it further enacted by the authority aforesaid that, in case the said Sir Paul Pindar shall, before the sixteenth day of January in the year of our Lord one thousand six hundred and ninety-seven, be contracted or married to any person or persons whatsoever, without the consent of *the Lord Chancellor or Lord Keeper of the Great Seal of England for the time being* first had and obtained in writing under [their] *his* † hand and seal, such contract or marriage, without such consent as aforesaid, shall be and is hereby declared and enacted to be null and void to all intents and purposes whatsoever, any law, usage, or custom to the contrary in any wise notwithstanding. [Read 1ª this day, and a Petition of Weld and his wife and Grace Jones (Annex *a*) read (L. J., XV. 449).—On 8 Jan. a Petition of William Williams (Annex *b*) read, and, after debate, Ellis Hughes and John Wynne ordered to attend (*ib.* 455; MS. Min.).—On 14 Jan. Counsel were called in upon Weld's Petition. *Sir Thomas Powys:* At his mother's funeral Sir Paul was taken away by horsemen armed. Mr. Weld exhibited his Bill in Chancery, and prayed the securing of the Infant to regulate things for him. There was an Order of Chancery in '90 to produce the Infant, and the Court of Chancery in '91 sent a messenger down. They threatened the messenger. They sent again, and the second time threatened. In April 1693 the Court, notwithstanding menaces, sent a messenger down with some with him. When he came, 300 persons got together, and they took one and threw him into the river. The other they carried to the County Gaol, and squeezed his thumbs. At the Sessions the man was produced, and he was fined by the Sessions. We took ourselves to the King's Bench for *hominem Replegiandum*, and they have set aside the *Capias;* and now we have brought our Bill, and witnesses to prove what we have said. *Mr. Jennings* was heard for same. *Mr. Gittings*, sworn, says the child was taken away by the Major. Recites the particulars. The company, when he was on horseback, faced about. The Colonel told Sir Paul he must go with him. He said, "I will go with my uncle Pindar." The child clasped me about, and would not go with them. I went to Mr. Williams', and the servants said he was at home, and Sir Paul was there. This young gentleman came from his mother's house. The

* Altered, on report, from fifth, the date agreed to by Select Committee, MS. Min., 17 Jan.

† Amendment on report, MS. Min., 17 Jan.

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Your Lordships find him in the beginning concerned. *Mr. Jennings*, in reply : My son, says Sir W. Williams, was guilty of the taking, but not of retaining. Then the Bill was read 2ª and committed. *Moved* to send for Sir Paul Pindar, and that Mr. Edward Williams bring the Infant hither. *Moved* to order Mr. Edward Williams to come hither and bring Sir Paul Pindar with him. House acquainted that Sir W. Williams will undertake the child shall be brought hither the day the House shall appoint. Sir W. Williams called in and told the Lords are informed that Sir Paul Pindar shall be brought up. He produces Sir Paul Pindar's Petition from his agent he may may be brought up by three weeks. He may be here within three weeks' time, so he be under the protection of this House, and not harassed by messengers, nor delivered to the Court of Chancery. *Ordered* that Edward Williams attend on 31st and bring Sir Paul Pindar with him. Sir W. Williams called in again and told by the Lord Keeper that the Lords observed he made things subject to accidents. The Lords have made an Order. They expect from him a letter to make it effectual. He says, I will undertake he shall come. The thing shall be done, and he here by the time in the Order. He was told the House had resolved to send an Order by a messenger, and he might write what letter he pleased ; and if the Order were not complied with the House would send for the persons in custody. He says he submits to the Order. *Moved* that the Justice of Peace shall be punished. *Ordered* that Mr. Attorney General do look into this whole business and prosecute all persons therein concerned, according to law, in contempt of the Orders of the Courts of Justice (MS. Min., 14 Jan.).—On 16 Jan. in Select Committee, after the Bill had been amended as shown above, Sir W. Williams offered a Petition in the name of Edw. Williams and Sir Paul Pindar, which was read and given him back. (Com. Book 16 Jan.) On 17 Jan. the Bill was reported with Amendments, and, after debate, further Amendments made, as shown above. (MS. Min., 17 Jan.) On 26 Jan. the House was *moved* to consider of some words in a Case (Annex *d*) printed by Edward Williams, viz^t^, "without hearing him before the House of Lords." *Ordered* that the person who dispersed the said Papers do forthwith attend this House. (MS. Min., 26 Jan. No entry in L.J.) On 31 Jan. Sir Paul Pindar and Mr. Williams appearing, the L. Keeper acquainted the House how the forms of the Court of Chancery stood in this case. Sir P. Pindar and Mr. Williams were called in, and the L. Keeper asked him if he was Sir Paul Pindar, and told him that the House had ordered that Mr. Cooling, the Yeoman Usher, do take care of him, and bring him into the Court of Chancery to-morrow morning. *Mr. Edward Williams* was told there was a Paper printed in his name. He says he knows nothing of it. Asked, who printed for him ? if he had Solicitors ? He says, Yes, one Mr. Allen, and withdraws. *Mr. Allen* was called to the Bar and shown the Paper and asked if he knew of those Papers. Says, He has another Solicitor, James Evans. I told him I would not meddle with them. James Evans brought the Paper to him, and he has owned he delivered the Papers to the Doorkeepers of the House of Commons. He lodges at Gray's Inn, I believe. I believe he is Clerk to Sir W. Williams. *Ordered*, that James Evans be attached. (MS. Min., 31 Jan. ; L. J., XV. 475.) On 4 Feb. a Petition of James Evans (Annex *e*) begging pardon for his offence, and praying to be discharged, read : *James Evans* called to the Bar and asked who drew the Case. He says, I did ; I am a Solicitor Sir W. Williams directed me. I showed it to Sir W. Williams after

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I had drawn it. Withdrew. Then he was called in, reprimanded, and discharged, paying his fees. Then he was sworn, and asked by whose direction? Sir William Williams told me a Case must be drawn. I showed it to him. I have the original draft. I cannot say he ordered that Clause. It was in the draft when I showed it him. He approved it. After debate, on question whether Sir Wm. Williams shall be now taken into custody, the previous question was carried by 30 votes to 20. *James Evans* called in again, and asked, had he any draft or heads by which he was to draw this? I had no draft or heads. I only added that clause to it. I had no orders for it. I knew it was necessary. I did add myself to it. Asked, if Sir W. Williams made any amendment in it, or altered it? He did add to it, that Sir Paul Pindar should be produced. Believes he has that draft. The draft Sir W. Williams mended is in Mr. Morgan's hands. Asked, who gave him the paper on which he drew this Paper, and to which he added the Title? *Sir W. Williams* called in and told the Lords understand he desires to be heard. Says, I did so. I hear there is a debate about a Case. There was a Case published which mentioned my son's name, and I told him he must take care nothing reflects on his (? my) son. The Title or any other part I did not look to. I only looked into the body of the Case. *Evans* was told that he said he showed the Draft to Sir W. Williams. Says, I remember Sir W. Williams added that Sir Paul Pindar should be produced at the House of Commons. *Sir W. Williams:* I looked chiefly that nothing was in it to my son, in the Case or anything else. Evans ordered to produce to-morrow morning the draft corrected by Sir W. Williams. (MS., Min. 4 Feb.; L. J., XV. 478.) The Bill was thrown out in the Commons on Report, C. J., XI. 275.]

Annexed:—

(*a*) 21 Dec.—Petition of George Weld, Esq., and Mary his wife, and Grace Jones, praying for a short day for them to make out the allegations of the Bill. *Signed* Geo. Weld. L. J., XV. 449. *See* Notes above.

(*b*) 8 Jan. 1694–5.—Petition of Edward Williams, Esq. Petitioner had the care and custody of the person of the Infant delivered to him in the lifetime of Mrs. Anne Pindar, the Infant's mother, and Petitioner, with others, are appointed his Trustees and Guardians by her will. Petitioner is also entitled to the custody of the Infant as Guardian in Soccage, being married to the Infant's mother's sister. Ellis Hughes and John Wynne, gent., who live near St. Asaph are witnesses to the truth of his statements. Prays they may be ordered to appear and give evidence, and that the hearing may be put off. *Signed* Edd. Williams. *Endorsed* as read this day. L. J., XV. 455. *See* Notes above.

(*c*) 17 Jan. 1694–5.—Amendments reported and made on report this day. They are shown above. Com. Book. 16 Jan.; MS. Min., 17 Jan.

(*d*) 26 Jan. 1694–5.—Printed Case of Edward Williams, Esq., in relation to Mr. Weld's Bill concerning Sir Paul Pindar, Bart. The full Title is "The Case of Edward Williams, Esq., against a Bill sent from the House of Peers to the House of Commons, prosecuted by Mr. George Weld, a Member of the House of Commons, relating to the Custody, Tuition, and Marriage of Sir Paul Pindar, Bart. By which Bill it is enacted That Edward Williams, Esq., shall, before the 15th of February 1694,

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produce before, and deliver unto, Sir John Summers, Lord Keeper of the Great Seal, Sir Paul Pindar, or in default thereof he shall suffer Death, as in case of Felony, without Benefit of Clergy. Mr. Edward Williams petitions he may be heard at the Bar of the House of Commons against this Bill, this Bill having passed without hearing him before the House of Lords.* The Case sets forth that Sir Peter Pindar, Bart., had issue Thomas and Charles and three daughters, one of whom married George Weld without her father's consent. Robert Wynne, seized of an Estate of Inheritance, had three daughters, Ann, Mary, and Jane. Thomas Pindar married Ann Wynne, her father's sole heiress, and had issue Sir Paul Pindar and one daughter, and died in 1687. In 1689 his widow, Ann, appointed, by her Will, Edward Williams (married to her sister Jane), Roger Mostyn, and Ambrose Thelwall, Trustees of her Estate, and Guardians of Sir Paul. On the mother's death in 1690, Williams, with consent of his co-Trustees, peaceably took charge of Sir Paul. The Case goes on to recite the proceedings in Chancery. The Commissioners of the Great Seal, assuming jurisdiction over the Estate, appointed Williams the Receiver of the Rents of the Wynne Estate, and Charles Pindar, the Infant's Uncle, of the Pindar Estate. On Charles Pindar's death they appointed Mr. Weld to succeed him, and Mr. Thomas Jones in the place of Williams. The Bill has been brought through the fear of these Receivers that they may be called on to account for the rents they have received on behalf of Sir Paul. Williams is entitled to the care of the Infant, by his mother's Will, and as Guardian in Soccage, and the Infant desires to continue under his care. There is no ground for the presumption of an intended marriage with one of Williams' daughters. It is rather to be feared that the person who married his wife without her father's consent, and one of his daughters to an infant baronet, would marry this infant to one of his daughters, if he could get them into his power. Hopes the Bill will be rejected. [Complained of in the House this day. MS. Min., 26 Jan. *See also* L. J., XV. 475, 478, and Notes above.]

(*e*) 4 Feb. 1694–5.—Petition of James Evans, in custody of the Serjeant-at-Arms. Begs pardon of the House for having dispersed the above Case, and prays he may be discharged. *Signed* James Evans. L. J., XV. 478. *See* Notes above.

868. Dec. 22.—Dodsworth *v.* Edwards and others.—Petition and Appeal of Christopher Dodsworth, London, Merchant. Richard Pooke died possessed of a great personal Estate, leaving Elizabeth, his wife, and by her five children, vizt, George, Stephen, Elizabeth, Susanna, and Sarah. The widow afterwards married Daniel Andrews, of London, Merchant, Elizabeth the daughter married Petitioner, Susanna married Stephen Charlton, since deceased, and Sarah married Benjamin. The property consisted of houses leased from the Dean and Chapter of St. Paul's, vizt, the Paul's Head and Houses in Abchurch-lane and Friday-street, which were burnt at the Great Fire in 1666 and re-built by the Petitioner. George Pooke died intestate, and Petitioner, in Trust for his brother and sister took out Letters of Administration. Edwards and his wife, and Susanna Charlton sued him in the Exchequer for their share of their

* These were the words on account of which the Paper was complained of in the House. *See* Notes above.

1694. — No. 868. brother's property, and obtained a Decree, from which Petitioner appeals, as the Administration was granted to him before the Statute for dividing Intestates Estates, and he was thus entitled to the whole, and he had paid for the rebuilding, and had enjoyed the premises for twenty years. *Signed*, Chr. Dodsworth, and *countersigned*, Edwd. Strode, Phil. Bridal. [Read this day L. J., XV. 450. At the hearing on 7 Feb. 1694–5 *Mr. Bridges* and *Mr. Solicitor* were heard for Appellant, and *Sir Thomas Powys* and *Sir Bartholomew Shore* for Respondents. The Appeal was dismissed with 40*l.* cost, and the Counsel who signed the Appeal were ordered to attend. (MS. Min. 7 Feb.) They were reprimanded for signing it. (MS. Min. 8 Feb., which gives the names as *Strode* and *Lidall*. Compare L. J., XV. 483).]

Annexed :—

(*a*) 8 Jan. 1694–5. Answer of Benjamin Edwards and Sarah, his wife, and Susanna Charlton. Appellant had recovered the cost of rebuilding out of the rents. He had never attended before Tobias Eden, the Deputy of the King's Remembrancer, to oppose his Report. Though he had enjoyed *possession* for 20 years, it was always considered that he held in trust for Respondents. *Signed* by Respondents, and *countersigned* Bartho. Shower, Fran. Browne. *Endorsed* as brought in this day. See also L. J., XV. 482.

869. Jan. 3. Northleigh's Estate Act.—Amended Draft of an Act to enable Trustees to grant leases of the lands of Henry Northleigh, Esq., lately deceased, for payment of his debts and providing a maintenance for his children. The Lords' amendments in Committee were merely formal. No Amendments in the Commons. [Read 1ª this day. Royal Assent 22 April. L. J., XV. 454, 562. 7 Will. III. c. 28 in Long Calendar.]

Annexed —

(*a*) 14 Jan. Lords' Amendments in Committee this day. Com. Book.

(*b*) 14 Jan. Consent of Susan Northleigh, the widow, and Robert Northleigh, the only brother, of Henry Northleigh to the *Bill, dated* 8 Dec., and *attested* by John Colcott and John Hamley. [Produced this day before the Select Committee by Wᵐ Symonds. Com. Book 14 & 16 Jan.]

870. Jan. 7. Lloyd *v.* Griffiths.—Petition and Appeal of Richard Lloyd, Gent. Petitioner's father and grandfather, Evan and Richard Lloyd, mortgaged a messuage called Ty'yn'y' Dy Gwin, situated in Moughtrey Llan and Eskergyhog, Montgomeryshire, to William Ruffe, who had assigned to Robert Griffiths, Esq., deceased. Griffiths brought a Bill in Chancery against Petitioner (on whom the property was entailed), Roger Peirce, William Ruffe, Margaret Lloyd (Petitioner's mother), Peirce Oliver, and Hugh Jenkins, suggesting that Petitioner's father, mother and grandfather had combined to prevent the recording of a fine, by which alone Griffiths could secure his title against the entail. He obtained a Decree, and he and his two sons after him, Richard and Edward, entered upon the premises and held them, while Petitioner was beyond the seas. Appeals against the Decree. *Signed* by Appellant and *countersigned* G. Duncombe, Rob. Price. [Read this day (L. J., XV. 454). At the hearing on 26 Feb. *Mr. Solicitor* and *Mr. Price* appeared for Appellant, and *Sir Tho. Powys* for Respondent, who stated that the Appellant had never been beyond seas, and had brought

his appeal 18 years after the Decree. The Appeal was dismissed with 40*l.* costs, and Evans, the Solicitor, was ordered to be attached for presenting a frivolous Petition (MS. Min. 26 Feb.). Evans was discharged on 2 March without paying fees. L. J., XV. 510.] 1694-5 — No. 870.

Annexed :—

(*a*) 15 Jan. Petition of Edw. Griffith, Esq. As Appellant owes over 52*l.* and costs to Petitioner in the suit, and as one Dr. Evans, who solicits this Appeal, offers to give his Recognizance for Appellant as security for Costs, and is not sufficient to answer the same, Petitioner prays the Appellant may be ordered to pay the 52*l.* and to give good security for costs. L. J., XV. 462.

(*b*) 28 Jan. Answer of Edward Griffith, Esq. The Decree appealed from was just. Prays the Appeal may be dismissed with exemplary Costs. *Signed* by Respondent and *countersigned* Bartho. Shower, Ro. Blayney. *Endorsed* as brought in this day. *See also* L. J., XV. 507.

(*c*) 29 Jan. Petition of Respondent for a month's time to prepare for the hearing, as his Deeds and papers have passed through several hands, the Decree having been given so long ago. L. J., XV. 473.

(*d*) 2 March. Petition of Edmond Evans, Dr. of Laws. Petitioner acted for Appellant not as a Solicitor, for fees, but as a friend and relation. Sir William Williams conducted the cause. Petitions took his measures from the very Instructions or Breviat of Serjeant Maynard at the hearing 27 years ago. Begs pardon, and prays to be discharged without fees. [Read this day (L. J., XV. 510). Petitioner had been attached for presenting a frivolous Appeal (MS. Min. 26 Feb.).]

(*e*) 11 April. Petition of Appellant. Respondent never served upon him the Order for Hearing until three days before the hearing, so that Petitioner was unable to instruct Counsel, Sir W. Williams, who was his only Counsel instructed, and had the material papers, having gone on Circuit. Petitioner would have proposed, at the Hearing, to come to an account with Respondent, and does so now. Prays for a rehearing. *Endorsed* as read this day and rejected, with Order not to be entered or took notice of in the books.

(*f*) Affidavit of Appellant in support of the allegations of preceding as to the service of the Order for hearing. *Sworn* on 26 March before Ja : Pryce, Montgomeryshire. [Appended to preceding.]

(*g*) Affidavit of John Griffiths, the Appellant's son-in-law, that he retained Sir W. Williams and Sir Thos. Powys as Counsel, and left the papers with Williams, owing to whose absence the Appeal had miscarried. *Sworn* on 26 March before Ja : Pryce, of Montgomeryshire. [Appended to (*e*) above.]

871. Jan. 9. Cosserat's Naturalisation Act.—Amended Draft of an Act for naturalising of Bernard Cosserat, *als* Mourté, and Alexander Ringli and others. Identical with Act, except that the names contained in the separate schedules on the Roll were added by the Commons (*see* Annex (*f*) below.) [Read 1ª this day. Royal Assent 15 March. L. J., XV. 456, 519. 7 Will. III., c. 7, in Long Calendar. *See also* Com. Book 17 Jan.]

1694-5. — No. 871. Annexed :—

(*a*) 17 Jan. Lords' Amendments in Committee this day. They consist in the addition of Sperling, Van Omme, Weymans, Soumans and Gronen to the Bill. Com. Book.

(*b*) 17 Jan.—Certificate that Bernard Cosserat, of London, Gent, had taken the Sacrament at the Church of St. Peter Lee Poore, London, on 6 Jan. *Signed* by Richard Leach, the Minister, and J. Oldbury, the Churchwarden, and *attested* by Alexander Ringli, of London, Gent., and Herman Olmius, of London, Merchant. *Dated* 6 Jan. [Produced before the Select Committee this day. Com. Book.]

(*c*) 17 Jan.—Similar Certificate for Alexander Ringli, of London, Gent., *attested* by Cosserat and Olmius. [Produced before the Select Committee this day. Com. Book.]

(*d*) 17. Jan.—Certificate that John Van Omme, of London, Merchant, had taken the Sacrament at the Established Protestant French Church on 6 Jan. *Signed* by Charles Piozet, the Minister, and *attested* by Anthony Gronen and Tho : Chaloner. *Dated* 14 Jan. [Produced before the *Select Committee* this day. Com. Book.]

(*e*) 17 Jan.—Certificate that Mr. Henry Sperling from Dantzig, is a true Protestant, and took the Sacrament in the High German Lutheran late Parish Church, Trinity the Less, on 8 Jan. *Signed* by John Esdras Edzard, the Minister, and Theodore Jacobsen and David Becceler, the Trustees. *Attested* by Peter Meyer. Dated 10 Jan. [Sperling was added to the Bill this day in Lords' Select Committee. Com. Book.]

(*f*) 11 Feb.—Certificates that the persons added to the Bill by the Commons had taken the Sacrament, the first five in the true Protestant High German Lutheran late Parish Church, Trinity the Less, London, *signed* by John Esdras Edzard, the Minister, and Theodore Jacobsen and David Becceler, the Trustees of the said church ; and the sixth in the Dutch Church in London, *signed* by Samuel Biscop, the Minister. [Sent up from the Commons this day with the returned Bill. *L. J.*, XV. 487] ; viz. :—

(*f*)[1] Herman Frederick Dorryen, on Christmas Day. *Dated* 1 Jan. *Attested* Henry Ulcken, Peter Willoke.

(*f*)[2] Georg Stein, on Christmas Day. *Dated* and *attested* as preceding.

(*f*)[3] Henry Erick, on 6 Jan. *Dated* 21 Jan. *Attested* David Teuffenwieser, Peter Willoke.

(*f*)[4] John Reinold Brand, on 3 Feb. *Dated* 6 Feb. *Attested* J. Joyce, Peter Willoke.

(*f*)[5] John Warneck, on 3 Feb. *Dated* 6 Feb. *Attested* Peter Meyer, Peter Willoke.

(*f*)[6] Jacob Henckel, on 30 Dec. *Dated* 1 Jan. *Attested* Reinier Lampe, Lawrence Vandevelde.

872. Jan. 9.—Hare's Estate Act.—Amended Draft of an Act for the better enabling the Executors and Trustees of Sir Thomas Hare, Bart., lately deceased, to raise Portions and Maintenances for his younger children. The Preamble is virtually the same as in the Act. The Bill then went on to provide that the Trustees should receive all the profits of the Estate during the minorities of Sir Ralph and Thomas Hare, other than the jointure of Dame Elizabeth Hare, and raise thereout the portions and maintenances in Will, together with an allowance

1694-5. — No. 872.

to Sarah Hare of 40*l.* a year until the age of 18, and 100*l.* a year afterwards until marriage, and of 40*l.* a year each to George and Richard Hare, until the age of 17, and of 100*l.* a year afterwards until the age of 21. If these portions &c. are not thus fully raised the Trustees are to implement them out of the unsettled Estates other than Hillborow and Shipthain; and these Estates are further charged with annuities of 100*l.* a year to George and Richard after their majority, which they may levy by distress. If Sir Ralph and Thomas die without heirs male, their Estates, not comprised in the Settlement, shall go to George, Richard, Elizabeth, Mary, Susan, Margaret and Sarah successively. Then follows the General Saving Clause. The whole of the enacting part is struck out, and Annex *h* is substituted for it. [Read 1ª this day (L. J., XV. 456). In Select Committee on 18 Jan. evidence was given that Sir Thomas, before his death, said his two younger sons should have 100*l.* a year for life, and his son Ralph to pay it. Sir Ralph is 14 years old in April next, and is now at Wisbech. He consents to the Bill. (Com. Book, 18 Jan.)—On 19 Jan. a letter from Sir N. L'Estrange and Henry Oxburgh, consenting to the Bill, was produced by Dr. Brady, and formal consents were ordered from the Trustees other than Brady (Com. Book, 19 Jan.)—On 29 Jan. the consents of L'Estrange, Robert Brady and Henry Oxburgh were produced. John Watson swore he showed Mr. Walpole the Bill, and he said he would give him no answer presently. He would take some time to consider of it. A letter from Sir Ralph (Annex *a* below) was read, and ordered to be reported to the House. Then some amendments were made in the part afterwards struck out, one giving a portion of 2,000*l.* to Sarah on her marriage, and another adding Susan Barrow, wife of Thomas Barrow Esq., and Alice Hare, grand-aunts of Sir Ralph, to the Saving Clause; and it was ordered to add a Clause that the daughters' portions should revert to Sir Ralph if they died unmarried, and another for additional maintenance for Sir Ralph during his minority (Com. Book, 29 Jan.)—On 1 Feb. Dr. Brady said he gave Mr. Walpole a copy of the Bill (*see* Annex *f*) last Session, and he was then consenting to the Bill, and wished him to employ Mr. Allen in it. A letter was ordered to be written to Mr. Walpole to ask whether he consented to the Bill, and for his Reasons if not, which letter was accordingly written by Mr. Relfe, the clerk, and sent this day (see Annexes *c*, *d*, *e*). Com. Book, 1 Feb.—On 16 Feb. letters from Mr. Fuller to Lady Hare and from Dr. Brady to Mr. Walpole were read, besides Annexes *b*, *c*, *d*, *e* and *f*, and Mr. Walpole's Counsel was ordered to be heard (Com. Book, 16 Feb.)—On 19 Feb. *Mr. Thursby*, for Mr. Walpole, said his instructions were only to state the case, and not to argue. He appeared as a friend of Mr. Walpole's, and not for a fee. Mr. Walpole consents that the Estate should be charged during the minority. He proposes that the mother should provide for the two youngest children. Lady Hare offers 300*l.* a year for them if she may have her first jointure. They are directed to prepare Clauses making Lady Hare guardian, appointing a Receiver, and adding 100*l.* a year to Sir Ralph's maintenance till the age of 17. (Com. Book, 19 Feb.)—On 22 Feb. the Bill was further amended, and a clause was ordered giving Sir Ralph power to transfer the Incumbrances to other lands (Com. Book, 22 Feb.)—On 25 Feb. Dr. Brady and Mr. Thursby were examined as to the amount of the Estate and the incumbrances; and on 26 Feb. Dr. Brady delivered in an account of what the estate would amount to at Sir Ralph coming of age (see Annex *g*) and offered a Paper to be the substance of the Bill.—On 2 March Mr. Thursby announced that he and Lady

1694-5. — No. 872. Hare's Counsel had come to an agreement, and they offered Clauses (Annex *h*) which were substituted for the enacting part of the Bill (Com. Book 25, 26 Feb.; 2 March). The Bill received the Royal Assent on 22 April (L. J., XV. 562). 6 & 7 Will. III. c. 42 in Long Calendar.]

Annexed—

(*a*) 29 Jan. Letter from Sir Ralph Hare to his mother, Lady Hare, as follows:—Madam, as soon as my friend Mr. Edwards told me how many difficulties you met with in procuring an Act of Parliament, and that my cousin Walpwol's consent was required by the Lords, I went myself to him, that he might not have that excuse for his refusal that he was not sure I was willing it should be done. All that I said to him was that I should be a great rogue if I did not provide for my brothers and sisters, to which he answered that, when I came to age, perhaps I would alter my mind. I am sorry he thinks I shall live so long to prove an ill man at last; but, in spite of him, hope you will yet succeed, and in it you have my consent, and what I am able to do. But if, after all, you cannot obtain what you hope for, you may expect it from my duty; for, as soon as *I am able*, I will do what my father designed for his children; for if *I had* no reverence to his memory, I owe so much duty to my own reputation and honour, that I should not see my sisters want. But, Madam, they are your children, and that makes an addition to the affections of, my dear mother, your dutiful loving son, Ralph Hare. [Undated, but produced before the Select Committee this day (Com. Book, 29 Jan.) Sir Ralph was now nearly fourteen (*ib.* 18 Jan.)]

(*b*) 16 Feb. Letter from Sir Nicholas L'Estrange, one of the Executors, addressed to the Right Rev. Father in God, Jonathan, Lord Bishop of Exeter. The Executors pitched upon this method of obtaining an Act of Parliament for the clearing and enabling the performance of what plainly appeared to be the intent of Sir Tho: Hare, though unhappily defective in the wording of his Will. It is much more reasonable *the* younger children, as designed by the Will, should have *their portions* fixed, and to be raising during Sir Ralph's minority, than to have a dependence wholly upon their brother's kindness, though he has at these years a very sensible apprehension of the whole matter. The refusal of one of the Executors to consent to the Bill has raised difficulties. Begs his Lordship's favour and assistance. *Dated* 12 Feb. [Produced before the Select Committee this day. Com. Book, 16 Feb.]

(*c*) 16 Feb. Letter from Robert Walpole, Esq., of Houghton, to Mr. Relfe, the Clerk of the Select Committee. He has not been used rightly. Would have attended before the Committee but for his illness, which has kept him from the service of the House of Commons. Lady Hare's servant brought him their Lordships' Order to give his consent, he desired a copy of the Bill and time for consideration, which were refused him. He was merely offered to read the Bill then over. If he consents without sufficient consideration, Sir Ralph may hereafter think himself hardly dealt with by the Bill. He begs for reasonable time to consider the matter and consult his Counsel His hand being so illegible through illness, his servant has transcribed this. *Signed* R. Walpole. *Dated* Houghton, Feb. 5. [Written in answer to a letter from the Clerk, ordered on 1st

Feb. to be written to him, calling upon him for an answer whether he consented to the Bill, with his reasons in writing if not (Com. Book, 1 Feb.). His answer above was produced before the Committee on 16 Feb. (Com. Book).]

(*d*) 16 Feb. Paper endorsed "The case as to Sir Ralph Hare." States that Sir Thomas Hare left four Executors, Sir Nicholas L'Estrange, Mr. Walpole, Mr. Oxburgh, and Dr. Brady, and by his Will ordered the profits of his Estate, during the minority of his two sons, to be applied to the maintenance and portions of his four daughters. He afterwards had two sons and one daughter not provided for by his Will, whereby he devised all his lands (settled and unsettled), except what he had devised to his second son, to Sir Ralph, his eldest son, who was then seven and is now thirteen. The Bill proposes to charge the whole Estate, both before and after the heir's majority, to make good the portions included in the Will, as well as portions for the three children born after the Will. Mr. Walpole's Answer to the Lords is appended (*see* next paper) and is to be delivered to the Committee at their next meeting. As Lady Hare, the relict, has a great jointure of 1,300*l.* a year, Mr. Walpole cannot consent that the whole charge should be thrown upon the heir. Some part should be borne by the jointure. It is objected that the jointure is charged with annuities amounting to 350*l.*, and is, considering taxes &c., not worth above 400*l.* The answer is, let the jointure be charged after the termination of the annuities, which are for two or three old women's lives; else, when the Infant comes of age, he will not have any competent Estate to live upon. The Committee is to be desired to refer Mr. Walpole's Answer to Lady Hare and the other Executors, with a view to an agreement before they proceed with the Bill. [Produced this day before the Select Committee. Com. Book.]

(*e*) 16 Feb. Mr. Walpole's Answer to the Select Committee, appended to above. Will consent to the Bill if amended so as to carry out more nearly the intent of the deceased, and show a more tender regard to the heir. Recites the purport of the Will, as given in the Preamble of the Bill. What is left to the eldest son is little enough to live on during his mother's life, but the annuities of the two younger sons, George and Richard, charged by the Bill upon the unsettled Estate, make it still harder upon the heir, who will have barely 2,000*l.* a year to keep up Stow Hall with, whereas his father and grandfather had 4,500*l.* a year. Desires, therefore, that the Estate may come to the heir, on his majority, charged with nothing but the annuities to George and Richard, and that the jointure should be charged with that part of the portions not raised during the minority. A printed paper intituled, Reasons why the Lady Hare's jointure should not be charged to relieve the heir, states that he will be worth, when he comes of age, 40,000*l.* more than his father when he came of age. This is not true. It was worth 4,500*l.* when Sir Thomas succeeded to it, and the debt was 32,000*l.* The personal Estate left by Sir Ralph, his father, was valued at 6,000*l.*, and Sir Thomas received 16,000*l.* for the lands he sold in Suffolk, so that only 10,000*l.* debt remained. The incumbrances on the present heir will be annuities of 400*l* to his three brothers and at least 5,000*l.* left unraised for his sisters' portions.

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His grandmother's jointure was only 200*l.* a year, while his mother's is 1,300*l.* Altogether, he will be worse off than his father by 10,000*l.* The furniture will not be of any great value, after that of two rooms has been taken by Lady Hare. The estates bought by Sir Thomas are balanced by those he sold to Sir James Fuller and others. Of the four executors, who are the Trustees in the Bill, one, himself, has been consumptive for two years, and cannot live many months; another, Dr. Brady, is an ancient man living out of the country, always bred a student, and not likely to understand country affairs. He, therefore, recommends that Mr. Ralph Hare, a near relation of Sir Ralph's, and a very sober, understanding person, should be added as Trustee. He further recommends their Lordships to take care of the young heir's person, who is a very hopeful young gentleman. He was placed by his father at Eton; but no sooner was his father dead than he was taken away and put under Mr. Oldham (one of the non-jurors of St. John's College, Cambridge) as his tutor, who may infuse such principles into him as may be of no service to the Government, and of ill consequence to the young gentleman. *Signed* R. Walpole. *Dated 12 Feb.* [Produced before the Select Committee this day. Com. Book, 16 Feb.]

(*f*) 16 Feb. Mr. Walpole's Answer to Dr. Brady, another of the Executors. Dr. Brady's statement, that he left a Copy of the Bill with the writer, is absolutely false. It was the Will he left. He owns Dr. Brady showed him a Draft or Heads for a Bill, and they had some talk about the daughters' portions. After he went down into the country he had better information how Sir Thomas Hare's concerns stood, and if he had done as Brady would have had him when they met at Stow, he could not have justified it either to God or man. Will set no value upon his understanding (as Brady has so fully and so extraordinarily done), but will pretend to as much integrity for the service and welfare of Sir Thomas Hare's family, and for doing what is most for the good of it as any man. Controverts the statement, as in the preceding paper, that the Estate will be 40,000*l.* better. Is informed that Sir Thomas' Estate, when he came into it, was not above 4,000*l.* a year. Captain Barber, his Executor, at Sir Thomas' death, makes it 4,500*l.*, and it is hard to believe that rents are so much abated. As to young Sir Ralph's being taken from Eton school, it could be but just before his father's death, and could not have been with an intention to place him with a non-juror as tutor, his father having himself taken the oaths to this Government; nor ought Dr. Brady (being Executor) to countenance or approve of it, he having likewise taken the same oaths. By the Instructions he has sent up, Brady will find he is not against the Bill; but he is not for having it done according to Brady's prescription, but for the greatest ease that may be for the heir at law. [*Undated.* Produced this day before the Select Committee. Com. Book.]

(*g*) 26 Feb. Account of the rents of property in Stow-Bardolph, Wallington, Wimbotsham, Downham, Bexwell, Stow Hall, Brancaster, Wallpool, Shipdham, and Hilborow, amounting to 2,009*l.* 0*s.* 10*d.*, probably produced before the Committee by Dr. Brady this day. Com. Book.

(*h*) 2 March. Clauses added this day in Committee, instead of the whole enacting part of the Bill. Identical with Act. Com. Book of date.

873. Jan. 9. Woollaston's Estate Act.—Amended Draft of an Act to enable Hannah Woollaston, widow, and Jonathan, her son, an infant, to sell certain lands and tenements in Warnford, in the County of Southampton, for payment of debts and legacies according to the Will of Richard Woollaston, Esq., deceased. The amendments in both Houses were purely formal. [Read 1ª this day. Royal Assent 22 April (L. J., XV. 456, 563). 7 Will. III. c. 45 in Long Calendar. *See also* Com. Book, 19 Jan.]

Annexed :—

(*a*) Copy of the Act, certified by Wm. Cowper, Clerk of the Parliaments.

874. Jan. 12. Rogers' Estate Act.—Amended Draft of an Act to enable Jane Rogers, the widow and relict of Bryan Rogers, late of Falmouth, merchant, deceased, and Administratrix of his goods and chattels with his Will annexed, and other Trustees therein named, to sell lands for the payment of the debts and legacies of the said Bryan Rogers in performance of his said Will. (Cp. No. 819). The Lords' Amendments, besides a few drafting ones, were to add the words vesting the property in the new Trustees, and the words making Bryan Rogers' debt to the King out of the revenues of the Duchy of Cornwall a second charge on the Estate. No Amendments in the Commons. [Read 1ª this day. Royal Assent 22 April (L. J., XV. 459, 562). 7 Will. III. c. 30 in Long Calendar. *See also* Com. Book, 28 Jan. 1 Feb. and MS. Min., 5 Feb.]

Annexed :—

(*a*) 1 Feb. Lords' Amendments in Committee on 28 Jan. and this day, and ordered to be reported this day. The substance of the more important is given above. Com. Book of dates.

875. Jan. 12. Bassett *v.* Hitchins (In Error).—Copy of Writ of Error and Transcript of Record brought in this day (L. J., XV. 460), together with Tenor of Judgment given on 19 Feb. (*ib.* 499 *in extenso*). Sir Henry Killigrew in 1644 made a Will leaving his property, the Manor of Laurack and Barton of Juts, Cornwall, and lands in the Lindsey Level in Lincolnshire, and other property, to his cousin Jane Berkley, by whose virtuous conversation he had been reclaimed from many vices to which both by nature and custom he was made subject, the lands in Lincolnshire to be hers and her heirs' for ever, the other lands, after her death, to go to his natural son Henry Killigrew *alias* Henry Hill and his heirs male, failing whom to his nephew Sir Joseph Seymour. He also made a later Will, the purport of which was unknown. After his death Mrs. Berkley demised the Manor and Rectory of Laurack and other property in the parishes of Laurack, St. Jermen's, Quethiocke, St. Ive, Kellington and St. Stephens near Saltash to Edward Nosworthy during her life, whose son and heir Edward transferred them to John Hitchins, the Plaintiff. Sir William Bassett, Knt., the son and heir of Elizabeth Bassett, daughter and heiress of Sir Joseph Killigrew, Knt., Sir Henry's elder brother, ejected Hitchins, as heir to Sir Henry Killigrew, and Hitchins sued him for trespass. [At the hearing on 19 Feb. *Sir Thomas Powys* and *Sir Bartholomew Shore*, for Plaintiff, argued that the former Will was revoked by the latter. A verbal Will will revoke a former Will. *Mr. Hawles* and *Mr. Finch*, for the Defendant, contended that a Will

1694–5. — No. 875. could not be revoked by another, of which nothing was known. A second Will is not necessarily a revocation. (MS. Min., 19 Feb.) Judgment was given for Hitchins (L. J., XV. 499).]

Annexed :—

(*a*) 23 Jan. Petition of Sir Edward Hungerford, Knt. of the Bath, and John Hill, Gent., the Executors of Sir William Bassett, Knt., deceased, the Plaintiff, for the Defendant to join issue. L. J., XV. 469.

(*b*) 8 Feb. Petition of same for a day for hearing, Defendant having joined issue. L. J., XV. 483–4.

876. Jan. 15. Kirke's Estate Act.—Amended Draft of an Act for settling the Estate of John Kirke, deceased, for payment of his debts. The Lords' Amendments consist mainly of the insertion of the Trustees' names. The Commons' Amendment was to add any charge imposed by any Decree in Chancery, and the debt due to Mrs. Anne Knap, to the sums to be defrayed under the Act. [Read 1ª this day. Royal Assent 22 April (L. J., XV. 462, 563) 7 Will. III., c. 44 in Long Calendar. *See also* MS. Min., Jan. 23 and Com. Book, Jan. 24, 25.]

877. Jan. 16. Caryll's Estate Act.—Amended Draft of an Act to vest in Trustees certain lands in Kent and Sussex* of John Caryll, Esq., for the payment of Debts and raising of Portions for younger children, and to supply the defects of a conveyance intended for those purposes. The Lords' Amendments were to add the names of Mary and Anne Weston, the amount due to them, and the term of their mortgage, together with the names of the Trustees. No Amendment in the Commons. [Read 1ª this day. Royal Assent 22 April (L. J., XV. 463, 562), 7 Will. III. c. 33, in Long Calendar. *See also* Com. Book, Feb. 4, 7.]

Annexed :—

(*a*) 4 Feb. Consent of Elizabeth Caryll, the widow, to the Bill. *Dated* 17 Jan. *Attested* by Mary Eyers, Cath : Waldegrave and Tho: Luckin. [This and the following paper were probably produced before the Select Committee this day.]

(*b*) 4 Feb. Consents of Anthony Kemp and Sir Henry Tichborne, two of the Trustees, to the Bill. *Dated* 26 Jan. *Attested*, as to Kemp, by Anthony Kemp, Tho : Newland and Tho : Luckin, and, as to Tichborne, by Fra : Robinson and Tho : Luckin. [The third Trustee, Henry Arundell, gave his consent at the Select Committee this day. Com. Book.]

(*c*) 7 Feb. Consents of Anne Weston and Mary Weston, the Mortgagees, to the Bill. *Dated* 6 Feb., and *attested* by Richard Lawson and Tho : Luckin. [Produced before the Select Committee this day.]

(*d*) 7 Feb. Amendments made this day in Select Committee. They are described above. Com. Book.

878. Jan. 19. Clifton's Estate Act.—Amended Draft of an Act to vest in Trustees certain lands of Sir Gervase Clifton, Bart., in the County of Nottingham, for payment of Debts and raising Portions for younger children. The Lords' Amendments were mainly to insert the names of the Trustees. No Amendment in the Commons. [Read 1ª this day; Royal Assent 22 April (L. J., XV. 466, 562). 7 Will. II. c. 25, in Long Calendar. *See also* Com. Book, Jan. 22, Feb. 1.]

* Altered in Committee from "Essex."

Annexed :—

(*a*) 1 Feb. Consent of Robert Clifton, brother of Sir Gervase, to his obtaining a Bill for the sale of a part, worth about 300*l.* a year, of the Estate. *Dated* 5 Nov. 1694. *Attested* by Wm. Parker. [Produced this day before the Select Committee. Com. Book.]

(*b*) 1 Feb. Consent of Dame Arabella Wheler, widow, one of the sisters and co-heirs of Sir Gervase's cousin, Sir William Clifton, deceased, similar to preceding. *Dated* 31 Jan. *Attested* by Wm. Parker. [Produced this day before the Select Committee. Com. Book.]

(*c*) 1 Feb. Amendments made this day in Select Committee. described above. Com. Book.

879. Jan. 19. Estoft's Estate Act.—Draft of an Act to vest some part of the Estate late of John Estoft, Esq., in Trustees to be sold towards payment of his debts and raising portions for his daughters. No amendments in the Lords. The Commons made a few drafting amendments. [Read 1ª this day. Royal Assent 22 April (L.J., XV. 466, 562). 7 Will. III. c. 29, in Long Calendar. *See* also Com. Book, Jan. 23 & 25.]

Annexed :—

(*a*) 25 Jan. Consent of Edward Barnard, of North Dalton, Yorks., Francis Nevile, of Chevett, Yorks, and Edward Wilbert, of Beverley, Yorks, the three Trustees, and of Rosamond Estoft, the widow, to the Bill. *Dated* 27 Dec. 1694. [Produced this day before the Select Committee, and proved by Christopher Tadman. Com. Book.]

880. Jan. 19. Finch's Estate Act.—Amended Draft of an Act to vest certain lands and tenements in Trustees to be sold for the better provision of the daughters and co-heirs of Joseph Finch, Esq., deceased. The Lords' Amendments were, besides the insertion of the names of the Trustees, purely formal. No amendment in the Commons. [Read 1ª this day. Royal Assent 22 April (L. J., XV. 466, 562). 7 Will. III., c. 32, in Long Calendar. *See also* Com. Book, 13 Feb.]

Annexed :—

(*a*) 13 Feb. Consents of Thomas Ramsden, of Croestone, Eland, Yorkshire, Esq., and Elizabeth, his wife, who was one of the daughters of Joseph Finch, and of Carolina, Theodora, Judith, and Ruth Finch, infants, his other daughters, and of Tho. Horton, of Barkisland, Yorkshire, Esq., their uncle and and guardian. *Dated* 24 Jan. *Attested*, as to Carolina Finch, by Willm. Metcalfe and Rich. Charlesworth, and, as to the rest, by Hen. Ellistones and Rich. Charlesworth. [Produced before the Select Committee this day. Com. Book.]

881. Jan. 25. Lancashire Plot (State of the Nation).—Papers connected with the enquiry into the Lancashire Trials, which arose out of the consideration of the State of the Nation, and which began this day. L. J., XV. 471. [In the debate on the State of the Nation on 25 Jan., the first subject mentioned was that of the Lancashire Plot; and, after a motion to consider the constitution of the Bank of England first, had, after debate been negatived, the consideration of the proceedings in respect of the late prosecutions concerning the Plot in Lancashire was appointed for the 28th (MS. Min., 25 Jan.; L. J., XV. 471).—On 28 Jan., the business appointed being called for, a debate ensued, of which

1694-5. — No. 881. notes are given in MS. Min., as follows:—An Account. Informers and Plots is the most unruly thing in the Office. Some time this summer her Majesty told me she was acquainted by a member of the House of Commons that there was a person from France could give an account [of] some things relating to the King's person. He waited on the Lord Keeper, and gave him an Account signed. If there has been any tampering with witnesses, Aaron Smith acted like an honest man in E. Nottingham's time. But it is said he tampered with Wilson, and threatened him particularly against Mr. Walmisley. He threatened a witness for the prisoner. Lunt was bailed by Smith. The Order of 25th inst. for the business of the day was read. *Proposed* that the Lord Keeper take heads of what was proposed as questions to be asked. *Moved* that the King's Counsel and the Prisoners' give a general account upon oath. That the Counsel for the Prisoners be heard first. Counsel for the King and Prisoners called in and told they must give an account in general of what they know of the Trials in Lancashire, and in particular of any illegal or indirect practices there. The Oath [to be] That they shall true answer make to such questions as shall be asked. The Counsel called in and sworn, viz.: Sir W. *Williams*, Mr. Holles (Hawles), Sergt. Gould, Mr. Brotherton (Brereton), *Cheshire* and Upton. *Proposed* if anything that is delivered as a secret, they are to tell it upon oath. Counsel withdrew. *Agreed* to tell them that if any question be asked them that comes within their oath, the Lords will consider of their objections. Called in again. *Mr. Upton:* An answer may be given to any particular question I can answer; but I was absent most part of the time. *Mr. Brotherton* (*Brereton*): I can give an account of fact. I observed, when the Judges came into Court 17 Oct., the senior Judge called for the Statute Book and read Hen. VIII. cap. 12, about reforming the Jury. The Judge declared they had power to alter the panel. But the Jury was sworn. There was great work upon the Ignorance of the Lord Shaftesbury. I thought this odd. I advised to let this alone, and move it in arrest of Judgment. There was no alteration made; but the Judge said, I showed what can be done. In the afternoon the Bills were found. Sir W. Gerrard was arraigned and he was told he should have a copy of the Jury *by 10 o'clock* [at] night, and the Prisoners told me they had *not the panel* the next morning. Those they were to except against were marked. Next morning there was a little paper handed about, called an addition to the panel. When the Court sat, the Judge told them if they would settle challenges. Says one of the King's Counsel, We can make no bargain. Mr. Dickson says, We will agree to take a joint challenge. All the gentlemen were called over, and one to challenge for all. The Prisoners were withdrawn, and the Judge said, Mr. Sheriff, let forty more be added to the Jury; and there was some added on the Friday. The Court said, They shall not be tried till Saturday. Several Jurymen were challenged for the King. The first man was Sir Edward Chisnall, and others were challenged. The Prisoner challenged 22. Mr. Aaron Smith challenged, and then the King's Counsel did what he named. Aaron Smith stayed in Court until 10 of the Jury were sworn, and then Mr. Beale looked on his notes and made up the Jury. The Prisoners desired the witnesses might be examined apart. The Court ordered all together. Lunt was called, and he being set up and said he knew them all. Sir Roland Stanley said, I know him not. Asked Lunt which he was, and he looked on the wrong [man]. He laid the staff on Sir Thomas Clifton's head, and said it was Sir Roland Stanley. The Court said, If he was there, and you sure of it, it is enough. Lunt

laid his staff on Sir Tho: Clifton's head, and called him Stanley, and that he had received money twice from him, one 4*l.*, other 20*l.* The Gentlemen desired another thing, that they might read some depositions in the Exchequer, and they would prove it false. The Court said, You may convict them of perjury. So nothing was allowed to be read, because they were not convicted. After the trial, Monday, the other Gentlemen were tried. The same gentlemen that were challenged for the King, Saturday, were on the Jury on Monday. Nobody appeared against them. Others were discharged. I moved for George Wilson. No, says Aaron Smith, I desire he may be continued by Recognizance. The Judge said, That will give him more trouble. Mr. Smith: I desire he may be bound in 100*l.* Recognizance; and nobody was bound with him, nor to prosecute. The Clerk of the Crown was asked why the witnesses for the King were not called by Recognizance. It was answered, there was none. The Court made some reflections on Lunt. Asked whether the Prisoners had the copy of the forty. I believe they had the copy of the 12 fixed to the other, and likewise copy of the 40 afterwards. *Mr. Jo: Cheshire:* I have been at very few trials, so can say little to what is usual; and to illegal I know not what to say As to the mistaking of the name, there was a mistake; and the Judge I think, said he should take the Crier's staff. I think Mr. Giles Eyres [Sir Giles Eyre] said, if he would say they were both there, it was enough, or no great matter. *Mr. Sergt. Gould:* I have observed what was said. He speaks as to the Jury. A panel was ordered Thursday. Ordered the same time the King had the panel and the other side another copy. I remember the Prisoner said there was forty to [illegible] upon them. There was such a mistake by Lunt. We bid him recollect himself, and take a stick and point, and he did take the stick and mistake. We went on with all the evidence we had. *Sir W. Williams:* I came into this business to attend this trial by command of Mr. Attorney General, whose business it is. I came to Chester. I was a stranger to this business. The Solicitor brought me instructions for the trial. I looked over them, and it was on Lunt's evidence. He asked me if one of his witnesses had a blemish on him by being burnt in the hand. I asked if there is a record of it. I said he might be sworn, however. I said, It may be he is honest in this case. We met together, and then we attended the Court. The Grand Jury was returned and sworn. The Commission was a Commission for Gaol Delivery; so it came very properly into Court, and that Statute was called for and read. The Judge gave his charge; the Bills were not engrossed; the Court was adjourned; and in the afternoon the Grand Jury found the Bill against Sir W. Gerard. Another Bill against five was found, and these five were arraigned, and also pleaded Not Guilty. Two other Bills were found, and Mr. Walmesley said there was a mistake in the parish. He had liberty to plead in abatement. There was direction for trial, and the Gentlemen moved not to be tried until Saturday. So the Court gave leave till Saturday, upon agreement of one to challenge for all. The Court gave order there should be a full number of gentlemen provided. Next morning we expected two things, whether Mr. Walmisley would insist upon the parish * * * The Gentlemen complied they would join in one peremptory challenge. Mr. Walmisley waived his mistake, and stood on his Not Guilty. We agreed to proceed against the five first in one Indictment. The Panel is called in order. It was not expected, I could challenge none. Mr. Smith, he had taken intelligence, and he said, I challenge such a person; and then we challenged him. A common person may challenge without

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cause. I did not urge anything but what I thought was just. They were within their number of 35 when 12 were sworn on the Jury, and so the King was presented as well as they. I called Lunt first as a witness. The Prisoners made exemption [exception], and would have the witnesses examined apart. I was obstinate in it. The Court asked us if we consented. I said, We are here on a special Commission; there is no consent we can give, Mr. Attorney nor Solicitor being here. Lunt was Sworn, and the Gentlemen saying they not knowing him, I asked him if he knew the Gentlemen at the Bar. He said, Yes, very well. I asked if he knew Sir Rowland Stanley. He said, Yes, and pointed at another, Sir Thomas Clifton. We were in an enemy's country. I said, Mr. Lunt, are you sure these are the gentlemen that were in the place. He said, Yes, I am. I was the occasion of this. In June or July he received such Commissions and delivered them to the persons there at the Lord Molyneux' house. Womall (Womball) the Carrier I called for, and he gave an account of the arms delivered, and the servants paid him for them. Then I called Geo. Wilson. He gave a clear evidence, concurring with Lunt. On the other side they produced one Mr. Dickeson and Tart and others against Lunt. One *of the Judges* in my eye said, when he heard the evidence for the Prisoners, *I* have had a jealousy in this matter since Lunt mistook, and I am concerned we did not examine the witnesses apart. *Mr. Holles* [*Hawles*]: The Statute. I never heard the Statute read before in Court. The Judge only used to give the Sheriff account of what they could do. There was ten additions to the Jury, and the bailiffs were examined, and summoned on several days. As to anything illegal, I know nothing, except as to examine the witnesses apart. I was for it. The gentleman with me was not of the same opinion with me. It is frequent to have many challenges. What was done on Monday I can say little to. We agreed not to produce evidence on Monday. *Upton:* Thursday night it was talked all was to be tried next day; and then they agreed to have the Jury fill. About 10 o'clock at night came in a Panel, and next day there was a Rider of 12 more come into the Panel. I went not into Court, or what bargains they made I cannot tell. *After* they had challenged, there was 40 more added to the Panel. *Sir W. Williams:* On Friday there was nothing done. I was against trying Sir W. Gerard first. I think Mr. Aaron Smith said he was weak, and therefore try him first. We were all together. *Mr. Serjt. Gould and Mr. Holles:* They did not remember it. *Brereton:* Thursday night when there was a man brought a Copy of the Panel. *Asked* whether any of the forty were any of the Jury that tried the Prisoners; *Answer*, I believe they were not. The directions for the 40 were after the Gentlemen had agreed to challenge. *Cheshire:* There was some scruple about subpœnas. The man ruffled me, and said, I could not grant a subpœna without the name given in. Mr. Hornby said he would not incur the forfeiture of his office. Mr. Hornby is deputy to the Clerk of the Crown. I did not ask who ordered him, nor did he tell me. *Asked* concerning proceedings in the Exchequer, where evidence was given concerning Lunt's given to superstitious uses. *Upton:* Mr. Winter told me there was *Certioraris*, but not for this business. *Asked*, Mr. Lee Banks, that there had been some threatenings. *Upton:* I know not that he went into the country. He was with me daily. *Asked*, if they can say anything of the Judges done unusual or unwarrantable. *Brereton:* I have given what account I could of the unusual practice. *Asked*, if there was any Order from Mr. Hornby. *Mr. Hawles:* Justice Eyre said he had given order for

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as many witnesses as they shall give the names in. Blank subpœnas are not lawful. [MS. Min., 28 Jan.)—On 29 Jan. after the Order of the Day was read, *moved* that if Mr. Smith be called, he be not on Oath. *Agreed* to call in Mr. Lee Banks, who was sworn and told he must give an account of what he knows on relating to the trials. *Mr. Banks:* I know nothing in Lancashire. I only know what relates to me. About Septr. I heard Mr. Taff had reported the Plot was only a sham plot, and that if any gentleman met him he would give him an account of the truth of things. He said Lunt was a base fellow, and that he did not doubt but that Lunt would give such an account himself. Mr. Clerke asked whether I had any one to go to Mr. Lunt. I spake to Mr. Bagshaw to go with me, and he gave Mr. Bagshaw an account how he must behave himself to Lunt. Mr. Beresford and I went to break off the meeting with Lunt, and we came to the alehouse, and there was Taff and Lunt. Mr. Beresford went off and I stayed. Mr. Lunt came into my room, and [said] that if I would go with him in his business I should be provided for. Mr. Taff asked Lunt many questions. He answered freely. He asked Lunt if he was concerned in such a plot. He said he was; but that would not bear but this was his plot and he owned it. Lunt said Mr. Lee of Lime is agent of a great estate, and his business must be done. I asked Lunt what I must do. He said I must have a Commission. I asked him how he would get King James' hand. He said I need not take care for that. I was to meet him again, and I went to Mr. Beresford, and [he] told me that they had spoke with Sir Bar: Shore, and he told them it was of dangerous consequence; and we went to the L. Ch. Justice, and the L. Ch. Justice ordered us to come in the afternoon; and we left the Affidavits with the L. Ch. Justice. My Lord said he thought they would be more serviceable to the Gentlemen at the trials, and gave them the Affidavits again. *Asked*, if he hath had any discourse with Mr. Preston concerning Lunt. *Answer*, Mr. Preston said Lunt had been conversant with Clifton two years in his house. *Asked*, if he was offered a share of Mr. Lee's Estate if he would be concerned in this case, *he said*, No. *Asked*, if my Lord Ch. Justice gave him any directions to go to any other with the Affidavits. *Answer*, My Lord said he could not advise him. He knew his own business best. *Asked* if any threatenings was used to him after this. *Answer*, Mr. Lee's sister went to the Secretary's Office, and Mr. Smith said she had given them more trouble than all the rest, and Smith said Mr. Beresford and himself were ill fellows, and ought not to be let loose. This he had from Mr. Lee's sister. Mr. Lee's sister is in town. *Moved* that Mr. Beresford, Mr. Bagshaw and Mr. Lee's sister be sent for. Mr. Lee Banks called in again. Says Mr. Beresford is at the door. *Mr. Edward Beresford* called in and sworn: In relation to the trials, I was at Manchester, but not in Court. September last Mrs. Dickenson writes to me to speak with her. She told me Mrs. Taff had told her her husband could do much concerning the Gentlemen committed. I met in Brownlow Street. Mr. Taff said he was satisfied the Lancashire Gentlemen were innocent, and if he could get some Gentlemen he would throw off the others. We agreed to meet Lunt in Bush Row. Mr. Bagshaw went and advised with Counsel. I went to Sir Barth: Shore. He not at home. We went to disappoint the meeting. Mr. Taff said, One of you must stay. Mr. Banks stayed, and came to us to the Rainbow; and told us he had appointed another day. We went to Sir Bartholomew. He advised us to publish this. We went to the L. Ch. Justice too

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with Affidavits. The L. Ch. Justice laughed. The L. Ch. Justice called us in and told us he could not take the Affidavits, but come in the afternoon; and we came, and he gave us the Affidavits, and told us we knew our own business best, and it would be most for the Gentlemen's advantage if we had kept them close and used them at the trial. One Affidavit was a leading Affidavit. I never saw Lunt but twice, once when he came with trooper to seize Lee, the other time at the trial. Mr. Taff said in Mr. Banks' Chamber because Lunt went with one Messenger to seize Mr. Blundell, and he met Mr. Blundell and asked him for his father; and when he came to him he knew him not. *Asked* if he knew the Messenger, he said, No. *Mr. John Bagshaw*, sworn: I can give account of what I had with Mr. Taff. 25 Sept. I came to Mr. Taff and he said Lunt was a great rascal, and if he could procure a Gentleman or two to support his Plot, otherwise his Plot would fall. Mr. Banks and Beresford went tothe place to meet Lunt. We went to Sir Barth: Shore, and he advised us to go to the L. Ch. Justice. The L. Ch. Justice told us he could not take them: They would be more proper and serviceable to the Gentlemen at the trial. And he told us in the afternoon he could not take them. Mr. Banks had the Affidavits. I hear they were burnt at Manchester. *Mr. Banks* was called in again and *asked* where the Affidavits are. *Answer*: I left the Affidavit with one Picket (Pigot) at Manchester. I told not anyone they were burnt. *Mr. Bagshaw* called in: *Asked* if he did not say Mr. Banks told him they were burnt. *Answer:* Mr. Banks, I think, told me Mr. Picket had burnt them. Order for attendance of witnesses made, on motion, as in L. J., XV. 474. (MS. Min. 29 Jan.)—On 1 Feb. *L. C. J. Holt* heard: I would gladly see these Affidavits. They would justify me. They were when the Prisoners were in the Tower. A servant brought me Affidavits, and told me they are relating to persons to be tried. I read them and was surprised. They did not come to acquaint me with it, but to slide them in to me. In point of law, to come and make Affidavits in a civil cause is against the law before a Judge who is to try the cause. *I said,* I know not what you mean. If you have anything to say it is better at the trials, for this I cannot do. I took time to consider. I told them it was proper to advise with the Secretary. This I knew nothing of the matter. I presume they would have published them. *Moved* to ask the L. Ch. Justice whether he acquainted any other person with these Affidavits. *Moved* that the persons at the Bar be called in and asked why they went not to a Secretary of State after they had been with the L. Ch. Justice. Whether they were directed by the L. Ch. Justice to go to the Secretaries and why they did not. *Mr. Lee Banks* was called in and asked, When you were before the L. Ch. Justice. he directed you to go before the Secretary? *Answer*, I remember nothing like. My Lord Ch. Justice said, Who is this Lunt? &c. At 4 we waited on him, and he said he could not take them. We knew our own business best. Sir Barth: Shore advised me to go to the L. Ch. Justice. Mr. Dene advised me to Sir Barth: Shore. *Question*, Where are the Affidavits? In Mr. Pigot's hands? *Answer*, I am sure I gave him mine. *Question*, Why went you not to the Secretary's? *Answer*, I thought, if it was to be told the Secretary, My Lord was properest to acquaint the Secretary. *Mr. Edw. Beresford* called in and asked if L. Ch. Justice advised him to go to the Secretary? *Answer*, No, he did not; his caution was rather to keep them secret to the time of trial. *Asked*, why he went not to a Justice? *Answer*, Because the L. Ch. Justice refused. *Question*, Why went you not to the Secretaries?

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Answer, Because we thought it proper to go to the L. Ch. Justice. *Asked*, whether they applied themselves to another to advise them? *Answer*, We did not. *Question*, Who directed you to go to the L. Ch. Justice? *Answer*, Sir Barth: Shore. We advised with nobody else as Counsel. *Question*, What's become of the Affidavits? *Answer*, I left mine with Mr. Pigot at Manchester. I have a Copy of it. *Mr. Bagshaw* called in and asked if L. Ch. Justice advised them to go to the Secretaries. *Answer*, No. I do not remember he did. I am positive. *Question*, Why did you not inform the Secretaries? *Answer*, My Lord said they would be most useful at the trial. Sir Barth: Shore advised. *Question*, Where are those Affidavits? *Answer*, Mr. Banks had them into the country, and I asked for them several times. Mr. Banks told me they were burnt or lost. *Mr. Beresford* asked if he advised with any but Sir Barth: Shore? Was anybody present with Sir Bartholomew? *Answer*, There was none else but us three. *Lee Banks, Beresford and Bagshaw* were called in and asked if any of them have copies. *Mr. Beresford* says he has a copy of his, and delivered it to the Clerk (Paper *a* below), and says it is a true copy on the oath he had taken. *Asked* if the L. Ch. Justice advised them to go to the Secretary of State or any other, *they said*, No, rather the contrary. I have in a Paper what the L. Ch. Justice told us. The copy of the Affidavit (Paper *a*) was read. *Moved* to adjourn to a day to proceed in the examination of the Lancashire Trials on Tuesday next, and witnesses to attend. The Question for adjourning till tomorrow was negatived by 28 to 17 votes, Tellers, E. Monmouth and E. Manchester. (MS. Min. 1 Feb.).—On 5 Feb. *Mrs. Lee Banks* was called in and sworn, and asked what passed between her and Aaron Smith or any other person in respect to Mr. Banks or other who attended the L. Ch. Justice. *Answer*, Mr. Smith said they were ill men to offer [to] swear against the King's witnesses, who were honest men. Not fit to be allowed to go to Mr. Lee. *Asked* concerning Warrants. *Answer*, It was reported they were to be seized, and Mr. Aaron Smith said they were ill men. Mr. Smith said nothing of any warrant to seize them. *Proposed* to call in Mr. Aaron Smith and examine him, but not upon Oath. *Mr. Aaron Smith* called in and asked how many days notice he gave to the Prisoners to be tried at Manchester. *Answer*, I did not give notice. Mr. Bayle did give notice to them. He can tell the time. He had directions from me. *Question*, What passed between him and Mrs. Banks? *Answer*, I do not know Mrs. Lee, nor Mrs. Banks; but, if I am asked what passed in E. Shrewsbury's office concerning Mr. Banks and Mr. Beresford, concerning attending L. Ch. Justice,—I came to E. Shrewsbury's office. Some gentlewomen were there. They had brought some Petition or some request to go to Mr. Lee. Mr. Vernon asked me what I could say. There was one Banks, and one by the name of Beringsford (Beresford). I took this Banks to be a woollen draper that had published the Mock Speech, but I did not say anything of being with the L. Ch. Justice. I cannot remember what I said to Mr. Beringsford. *Asked*, by whom he was told they had been with the L. Ch. Justice. *Answer*, There was a rumour some persons had been with the L. Ch. Justice. L. Ch. Justice once asked me if I knew one Lee Banks or Beres[ford]. I said not. Says he, They have been with me. He asked me if I knew one Taff. I said I did. *Asked* concerning Lunt's bailing, and upon what account? *Answer*, I coming from Whitehall, I was told Lunt was in a Constable's custody. I went to him. I asked what he did there. He said he was in custody. I asked, for

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what? It was answered, for having two wives. The Constable stayed some time. I went to my Lord Mayor and others, and they not at home. We found him at Goldsmiths Hall, and there a woman said she was his wife. The Lord Mayor asked where her witnesses were. I expected the Lord Mayor would discharge him. My Lord said, I will have bail; so I was bail with another for him. I know nothing of an Indictment. *Asked*, if he took out *Certioraris*, to be taken out. *Answer*, Lunt denied he was arraigned at any bar. I hear there was Indictments at the Sessions. It was said to come from Kenyon. By reports I heard this. I took out three *Certioraris* to the justices, one for Lunt, Womball and Wilson. I know not that the Clerk of the Peace refused to give subpœnas. He had orders against giving blank subpœnas. *Question*, Who made out the *Certioraris*? *Answer*, Mr. Bayle, I suppose, employed Mr. Wintour. *Asked* concerning Sir W. Gerard's being first tried. *Answer*, I do not know anything of his being first tried. I do not remember he was mentioned distinct, or named. *Asked*, Any warrants taken out for serving any witnesses that went into Lancashire? *Answer*, There was a Warrant against Mr. Taff from L. Ch. Justice. The *Affidavits* may be produced. *Asked*, Wilson, that was not tried, why bound over to the next assize? *Answer*, To be legally discharged, one John Wilson, one that made Girt[h]s, double Girt[h]s, and listed as a soldier. He declared and swore that he was spoken to by one Mr. Frilfull. (Lunt had been tried for Commissions from King James. By not making Commissions we could not try them. I delivered the Commission to the House of Commons). Made double girt[h]s, 80, which he delivered, that he says, arms and the great quantities they had sent from London, says several; and he and his brother was listed. *Moved* that Mr. Bayle be sent for, and Mr. Wintour, who made out the *Certioraris*. *Mr. Bayle* called in and asked when he gave notice to the Prisoners of their trial at Manchester. *Answer*, I believe about 14 days. I had the *Certioraris* from Mr. Robert Wintour for John Lunt, Wilson and John Womball. Mr. Kenyon told me there was no such indictments. *Moved* that the two Affidavits and Warrants granted upon them for apprehending persons for defaming the King's witnesses. . . . *Ordered* Mr. Robert Wintour attend. *Moved* Mr. Aaron Smith to be called in and sworn to be asked some questions. Mr. *Smith* sworn and asked what money he received to carry on this prosecution, and to whom he gave it. *Answer*, I received 500*l.* and I received 300*l.* It was paid in Bills and Counsel. *Question*, Can you remember what you gave the witnesses? *Answer*, I gave these sums: Lunt 3*l.*, 5*l.*, and 5*l.*, 10*l.* when they went down first; Wilson 3*l.*, 5*l.*, and 5*l.* and 2 guineas; Womball 3*l.*, 5*l.*, and 5*l.* and one guinea *Moved* that Mr. Smith give an account on oath of what money he received and paid in this business in writing. *Moved* that the Lords of the Treasury lay before this House an account of what moneys Mr. Smith hath received. *Mr. Smith* was called in and asked whether he received any money from any other place or Treasury. *Answer*, I received 50*l.* from the Secretary: None from Secret Service, or any other. After Debate, question put as in L. J., XV. 479 and carried by 24 votes, 4 proxies, to 22 votes, 4 proxies, Tellers E. Nottingham and E. Monmouth. Mr. Smith told he must give an account in writing upon oath on Monday next of the money received and paid in Lancashire Trials. *Mrs. Banks* called in and asked if she had anything further to say. *Answer*, She said Mr. A. Smith said he knew Mr. Lee Banks to be her brother. *Elizabeth Master* sworn: Smith said Banks and

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Beresford were very ill men to go about to make any Affidavits against the King's witnesses. There was 4*l.* or 5*l.* given Mr. Taff. Mrs. Banks told me, I presume my brother gave it him. *Asked* if they knew of any other sum, *they said*, No. Mr. Banks called in and asked whether he knew of any money paid Taff. *Answer*, I paid him 6*l.** *Asked* whether he did not advise with Sir W. Williams in behalf of the Prisoners after he came to Manchester. *Answer*, I never spoke with Sir W. Williams in my life as I know of. *Mrs. Banks, Mrs. Master and Mr. Smith* called in again together. *Mrs. Banks* says [He said] Mr. Banks and Mr. Beresford were ill men, and that he knew Mr. Banks to be my brother. *Mrs. Master:* Mr. Smith said, Mr. Banks and Mr. Beresford are ill men. He said he knew Mr. Banks was my brother. *A. Smith:* I will refer it to My Lord Lucas whether I said anything of my knowledge of this Smith [? Banks]. *Mrs. Banks:* It was the day the Gentlemen went out of the Tower, that Wednesday. *Mr. Smith:* That was the time, when the Lord Lucas was there. *Asked* whether they spoke to Mr. Smith at any other time than that time. *They say*, No. My Lord Lucas was by. *L. Lucas:* It was before they went out of the Tower, in a morning, for I was not there that day. I was with the Guard at Gray's Inn. I saw this woman and Aaron Smith talk together and heard them at the Secretary's Office. Mr. Smith called in and asked if he knows of two Affidavits and a Warrant† concerning Taff and a Warrant. *Answer*, At the L. Ch. Justice's the Affidavit. I have the Warrant. I know of no other warrant (MS. Min. 5 Feb.)—On 8 Feb. *Mr. Beresford* was asked whether he gave any money to Taff, and what. *Answer*, I gave him 20*l.* and 4*l.* Asked how he came acquainted with Taff. *Answer*, 28th Sept. I saw him first. It was occasioned by Mr. Banks. I gave him the money in consideration of his expense and loss of time. *Mr. Bagshaw* called in and asked, Did you give Taff any money. *Answer*, No. *Asked* how he came acquainted with Taff *Answer*, I told you the other day. *Mr. Taff* called in and sworn: *Asked* what money he received of Lee Banks or Beresford. *Answer*, I received of Mr. Banks 6*l.*, 24*l.* of Beresford. After I was examined at the House of Commons, Mr. Dickeson my wife wrote to, and they sent me 50*l.* at twice. *Question*, Had you any money before the trial? *Answer*, I received money due to my wife, 5 guineas. They made me offers at first, but I would not take it. Madam Dickeson and Mr. Lee Banks made me the offer; I came acquainted with Mr. Dickeson by my wife. I am no kin to Lunt, but Lunt has married, for one of his wives, my wife's sister. I heard there was several Commissions taken. I was a witness for the King. I was told that if the Estates were recovered, I should have advantage by it. Sir John Guise, Sir Scroope How, L. Warrington told me I should have some of the Estate. *Asked* if there was any Agreement put in writing. *Answer*, No, never. *Asked* if he sent any message to E. Macclesfield, *he says*, Yes. It was concerning Womball's being paid for carrying down arms. I know not Morris. Womball told me he was never paid for carrying the arms. *Asked*, how long he has been acquainted with Lunt. *Answer*, I met him by the name of Capt. Withrington in 1692. *Asked* if he did not know when Lunt came out of France. *Answer*, I know nothing but what he told me. *Asked* at what time he began to think what Lunt said was untrue. *Answer*, Before he went down to the seizing the

* The question "Whether he went not down to justify Mr. Taff" follows, but expunged.

† Comp. L. J., XV. 479, as to these Affidavits and Warrant.

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men in Chester. *Question*, Was you assistant in taking the men? *Answer*, Yes, I was; I went into Lancashire. *Question*, What made you believe Lunt to be a villain? *Answer*, Because I saw him instruct one another in what they were to say. I did talk with Mr. Wybrant. Yes, I had one in the Temple about this business. I told him if I could speak with Cottingham, I could save Lee of Limb's life. The ill opinion I had of Lunt was before I spoke with Mr. Wybrant. Lunt showed me the list of names. Lunt told me he knew my Lord Molyneux. I knew Lunt to be an immoral man. *Asked*, Who struck in and out names? *Answer*, I saw Lists with some. I never saw Mr. Smith do anything. I was in the next room. *Asked* in what he had served the Government. *Answer*, The King gave me 100*l.* per annum. My Lord Bellamont told me the King gave it me. I received [it] out of the Privy Purse. Capt. Baker's office is in the Temple. *John Lunt* called in and sworn: *Asked* if there was meetings at Mr. Baker's office where names were set down. *Answer*, I never showed nor told Taff any such lists. I came over with Frenford. I was in Ireland. I landed May day at Bantry Bay. I came out of Ireland the latter end [of] May. I was in the Guards. *Taff* (called *in again* and ordered to speak again about the List): He showed *me his list* one day, and another day another was left out. He showed me these lists almost every day, several times. *Mr. Lunt:* It is as great a lie as the heavens is true. *Taff:* I have been with Lunt at the Fountain Tavern. *Lunt* denies he was with him there. *Lunt:* I was with Taff's wife there. *Taff:* My wife chid Lunt for having my Lord Devonshire's name on the list. *Ordered* that Mr. Taff's wife immediately attend this House. Mr Baker called in and sworn. *Mr. Taff:* It was shown to me, this list, in my chamber, and these lists were altered. They struck out my Lord Devonshire, Marq. Halifax and others. I saw the lists often with those names in. I saw this list at Mr. Baker's chamber, and in Mr. Baker's hands, and Mr. Baker read it. I saw it at some taverns. Mr. Baker and Lunt and he was at the Divell Tavern. *Mr. Baker* heard; I never saw any list. Never was there any such list. I never was with them at the *Divell*. *With* Taff I have been at the Fountain in the Strand. *Taff: The list* was in Capt. Baker's clerk's hand. *Mr. Baker:* I have been at a tavern with this gentleman. I was employed to execute a Commission in Lancashire. This gentleman, Taff, was the evidence. I saw him first at York, and upon these occasions I was with him at the tavern upon this business. After Christmas he told me there was a person come out of France who could help in this matter, and he was an extraordinary person. I had Taff and this extraordinary man to the tavern. I knew him not. I met him in the Park, and told him if he came into Fleet Street I should gladly see him; and he told me afterwards that he had a discovery of a great business, which was to cut off the King, and that several had engaged him in it. Lunt let me into the whole matter. I seldom saw Mr. Lunt without Taff. Their main design, he said, was to get rid of the King. Lunt said, I have seen Capt. Walpole. I was to meet him again. My man went with them. My man said he was a desperate man. I went with them to the Queen's Head in White Hart Yard. Lunt told me their Club was there. The man of the house came in and came up and saluted Lunt kindly. I told Sir Scroope How of this matter, and desired him to advise me in this. I desired Sir Scroope How to acquaint some of the ministers with it. They withdrew. *Moved* to send for Baker's clerk, and to examine him. *Question* asked of L. Ch. Justice whether a man is not bound to dis-

cover a treason to a justice of peace? *L. Ch. Justice:* If he informs so as it may come to the Queen, it is not misprision, though he doth it not to a magistrate. *Moved* that Capt. Baker give an account of the trials at Manchester. *Mrs. Mary Taff* called in and sworn. *Asked* if Lunt was at her house. *She says,* Yes. We had a discourse about a list of names. I heard him name it by names. I heard him name the Prince and Princess, the Duke of Leeds, E. Devonshire, the Duke of Somerset, the Duke of Beaufort, L. Cardigan. He said one of those dukes protected 200 horses for Sir Wm. Goring, which were K. James's. He reckoned 12 or 13 as he read. He wrote them down. He did not tell me for what reason he wrote them down. I told him, when he named my Lord Devonshire, none could think him against the Government. He said Lord Devonshire had K. James' pardon in his pocket. The Lord Macclesfield was one. About a year ago since, it was, I saw this list. *Asked,* what money she received from the prisoners of Lancashire. *Answer,* I received 50*l.* at twice. I have been at a tavern with Mr. Lunt without my husband. *Mr. Taff* called in again; I say there was a list where the names of several were in. He showed it me at my room, when he talked about my Lord Devonshire. I am not confident whether he showed my wife the list, or named them to her. He took the list out of his pocket and showed it me. He wrote [it] at my house. *Asked* if any names was added to the list. *Answer,* I do not remember. L. Devonshire, M. Carmarthen, Halifax, Nottingham, Sir Jo. Mannering, Sir Willoughby Arson, &c. The Protestants were on one side, Papists on the other. He said L. Devonshire had his pardon from K. James in his pocket. I do not remember there was any one woman in the List. Then Taff was ordered to be attached and other orders were made as in L. J., XV. 484. (MS. Min., 8 Feb.)—On 9 Feb. a Petition of Mrs. Taff (paper *b*) was read, and she had leave to go to her husband, and Mr. Smith was given further time (till the 16th) to bring in his account on oath. (MS. Min., 9 Feb.)—On 12 Feb., *Moved* to call in Mr. Beresford. *Moved* to send for L. Ch. Justice. Mr. Cooling was sent to acquaint him that he was to attend before he left the Hall. *Moved,* Mr. Baker to be called and give an account of all he knows in relation to the late trials in Lancashire, to the proceeding at the trial, witnesses and King's Counsel. *Mr. Baker:* The Secretary of State commanded him to go with the messengers. That it was too big for messengers. I told them I was obliged for the good opinion they had of me. I told them I would undertake it. The messengers knew not what they were going to do. I put the warrants into their hands. I bid them do their duty. I went with the messengers to Standish Hall. Taff had been a priest in that house. The house is a great timber house. We searched, but could not find him (Mr. Standish). After 5 or 6 hours' search, we found saddles, bridles for troopers. There was about 30 new saddles, 4 bridles all new, fit for war, about 12 new bosses, stirrups and stirrup leather. There was other saddles in the house. I returned a silver sword and fowling piece. Brisco and Taff went up. Taff found a little hole near the chimney. The lady said, There is nothing there; and there was a bundle of clips for swords. They were brought down. There was a good buff coat. The gentleman was not found after seven hours search. In a bedchamber there was some loose papers, and I took them. At Mr. Massey's, of Pudington, they found new dragoon saddles and bridles, fit for that use, nine of them. [At] Mr. Tilsley ['s], there was rich housings and holster caps richly embroidered, fire arms, powder, bullets, 3 new steel heads for standard

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staves. One John Wilson was seized, a linen weaver. He said he knew the business and Lunt out of Ireland, and he told me a good deal, and he wrote it down and signed it. He went to Chester with the rest, and came to London, and then said more. He knew of Lunt and Tilfold's coming out of Ireland with commissions. He confessed Lunt listed men, and that he saw arms. At Trelfull's house he saw about 20 men. He helped Lunt to men to be listed. His brother and he were two of them. He saw Mr. Walmisley, and that Lunt delivered a list into his hands of men listed. There are priests commonly *in this* country. Taff is evidence. He says Mr. Lee of Limb is an honest gentleman. Says Taff, I can put him into a way to save his life. This was about a fortnight or 3 weeks before they went down. I was sent for to go down into Lancashire by the Secretaries. I subpœnaed several persons in the county to prove several circumstances. We came to Manchester Monday night. Mr. Knap went down and helped draw the Indictments and matters. Mr. Taff came down with the prisoner, and he said he came by Her Majesty's orders. The Gentlemen, five, came to their trial on Saturday. The Breviates were delivered on Thursday night. Sir Wm. Williams *said it carried* evidence in the breast of it. Sir Wm. Williams' son *was there, and he* was put to open the cause. The witnesses stood one by the other, Lunt, Wilson and Womball. He went over Wilson. I pressed Mr. Knap to call for Wilson. Lunt offered to speak two or three times, and the King's Counsel would not hear him. When Taff, Banks and two others was heard, the King's Counsel gave up the cause. On Monday there was other to be tried. Sir Wm. Williams came post to London. The other Counsel stayed. Taff said what he had done was by the King's order. *Asked*, what time he was sent to by the Secretaries of State. *Answer*, It was the latter end of June, or beginning of July. *Asked* concerning Capt. Walton, and his acquainting Sir Scroope How. *Answer*, I believe that was somewhere in May. *Asked* whether he knows of others that heard Taff say what he did was by the Queen's order. *Answer*, Yes, I can; Christopher Ellis heard it. Wilson was not examined at the trial at all. *Asked* where Wybrant is. *Answer*, I believe he attends. *Asked if he did* not hear of Capt. Green. *Answer*, I did. I thought he was a Frenchman. He was said to be Col. Parker. There was a great deal of joy that Col. Parker was escaped. *Asked* when Lunt's information was first brought to the Secretaries. *Answer*, I believe it was in June. *Asked* concerning Justice . . . *Answer*, One Justice Blackborne, and Byron asked who he was. He said, the King's Messenger. They knew not the badge nor the Warrant. They gave him no assistance. One Wood, Steward of the fair, assisted out of the fair: but before they came to Ashton they [had] 30 or 40 horse after them. Mr. Beale said Sir Wm. Williams asked him to show him Mr. Lee Banks. *Mr. Wm. Wybrant* was called in and asked what discourse he had with Taff. *Answer*, The first discourse was about some arms in Lancashire, and that there was a great many arms, and that upon disgust with Mr. Baker and Smith I could bring him acquainted with Mr. Lee of Limb. I told him, You know the gentleman: Go to him. I asked him whether he was an evidence. He said he was not. He said he knew the evidence, and they were substantial. Asked me again how to speak to a friend of Mr. Lee's; for he could say something to save his life, and he might get by it. *Asked* if he has not been long acquainted with Taff. *Answer*, I have been acquainted with him 3 or 4 years. I thought him very honest, but he has served me ill

tricks since. *Mr. Knap* was called in and asked concerning John Wilson's not being called for. *Answer*, He was put down amongst the witnesses. Sir Wm. Williams said, Let him alone; for it is a worn cause, and that will roll it. I was for going through with the breviate. Sir Wm. Williams said it in a whisper to me. I did some time after the trial speak something to Mr. Smith and Mr. Beale. I believe nobody could hear it but me. Great part of their evidence was that Mr. Walmisley was in France. I said we can contradict it. I showed Sir Wm. Williams my breviate, and there was 4 witnesses. Sir W. Williams said, None but a fool or k[nave] would press this. Sir W. Williams was next me, and I heard no others. It was in my breviate that John Wilson was listed. *Mr. Beale* was called in and asked if Sir Wm. Williams asked him to see Lee Banks. *Answer*, When I was waiting on this House, Sir Wm. Williams said, which is Lee Banks? I would fain see him. I do not know him. I heard him say so. *Christopher Ellis:* I heard Taff, after the trial [on] Monday fell, he told me what he had done was by the Queen's order. *Asked* if he met with Capt. Walton. *Answer*, I was sent to an alehouse in Ram Alley, and Mr. Lunt was there. They drank a health to the old man under the wood's ledge, and Capt. Walton was there. 14 June, I think, I was sent for, and came; and Lunt [and] the gentleman called Walton, we adjourned to the Cock alehouse. I never saw him before that time. In discourse Capt. Walton was taxing Lunt with discovery. He told him he had 100 men ready to go upon the first landing of King James, and he had a Patent of Sir Basil Dicwell's estate. I am with Capt. Baker, and serve him as his clerk. Walton was looking about getting a place in Ireland, and he would have had us to have gone to Shoe Lane and wheedled a man out of his house. I never met with him after, nor but twice. I went to meet Walton by a messenger. There was Lunt and Walton. Second time, we appointed a meeting at the Maidenhead in Ram Alley. There was a meeting to be at the Axe and Gate, near Whitehall. *Asked*, if he drew a list of people's names. *Answer*, He drew no list at all. I did not care to meet him more, nor so ill a man as he was, who had such designs to take a man out of his house. *Mr. Lunt* called in and asked what time he met Capt. Walton and Mr. Ellis. *Answer*, I cannot tell the time. I think it was in April, or May, or thereabouts. Twice we met. He promised to meet the third time, but Ellis did not care for meeting. I gave my Information to Secretary Trenchard in February, I think. I met with Walton at Nell's (Noel's) House and Peper was in Dover in December last was twelvemonths. *Question*, What sort of man this Capt. Noell is? *Answer*, He is Serjeant of the Admiralty under L. Sydney. I met Noell in the Strand. He would have had me drink with him. I durst not. I met Walton in the Temple. We had salmon to breakfast. *Question*, What discourse passed between you and Ellis and Walton? *Answer*, He did desire us to take a man into a coach and make him set his hand to a Bill; and that he had secured Dixwell's estate, and he had 200 men to rise when King James landed. That he was getting a place in Ireland. We drank K. James's health. I said, We have not got that little man down; but, says I, do not question but in a little time it may be. He did say much point blank about killing the King. There is another evidence that heard what Capt. Noell and Walton and I, said. She is a woman. *Mr. Baker*, called in again. I said Lunt told me he was to meet Capt. Walton, and he did meet him, once and again, and he would not go any more. Said they was brought from his Clubs in town. They said, We must be rid of this little dog. The time

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they, Walton and Lunt, saluted, I believe, was in May. I believe my man was with Walton early in May or latter end of April. *John Womball*, the Carrier: I carried down arms several times. The first I knew they were seized at Lichfield by the King's Messenger, I made an Information to this e[ffect], and we stopped them at Wican (? Wigan). *Asked*, How they came to be seized at Lichfield. *Answer*, They were seized there by King's Messenger, by Lord Macclesfield's order. First time [it] was [a] trunk of swords. Second time, my Lord ordered me to carry the arms into Lancashire. I carried all along twenty times, I believe. I saw some opened and divided amongst the Gentlemen. Seven packs was opened, and I saw the kettle drums and colours. I delivered these arms at Standish Hall. Some Gentlemen's men took one or two or three horses loads. The messenger's name is Morris. I carried arms several times. *Richard Morris:* I seized the arms by my Lord Ch. Justice Holt's orders. Justice Buckley came and brought me my Lord Ch. Justice's warrant. *Mr. Baker:* I believe it was in May my man met Capt. Walton. It was much about the King's going. I say my man said he would not meddle the third time. He did meet him twice. *Ellis:* The time of my meeting Walton and Lunt was the last summer, about June, I think. I cannot fix it to a time. I believe it *might be at the* beginning of June. I have not spoke to my master since, nor he to me. I was sent for the first time to Ram Alley, and the next morning we met at the Maidenhead, and then adjourned to the Cock Alehouse. I acquainted my master I had met them, and was to meet them again. He allowed me to go. I told my master he was a bloody fellow, and I did not care to come into his company (MS. Min. 12 Feb.)—On 15 Feb. *Mr. Vernon and Mr. Hopkins* were asked what they remember of Mr. Baker's coming to the Duke of Shrewsbury and Mr. Secretary Trenchard in respect to the Lancashire Gentlemen. *Mr. Vernon:* I did not know Mr. Baker's face until the trials were over. *Mr. Hopkins*, the same, until after. I have seen him at the Office, but never knew he came to the Secretary about that business. *Mr. Baker* called in and asked, Who introduced you to the Duke of Shrewsbury and Secretary Trenchard. *Answer*, Mr. Smith introduced me; he brought me to them, at my Lord Keeper's room in Whitehall. *Mr. Smith* called in and asked what time he came to Mr. Baker to order him to attend Mr. Secretary Trenchard and D. Shrewsbury. *Answer*, It was, to the best of my remembrance, in July. I think about the 4th or 5th July. *Asked*, what day the Prisoners and Judges set out for Manchester. *Answer*, The Judges the 11th, the Prisoners the 10th. *Asked* whether he knows of any Warrants for seizing Newbury, Cotton, Ward, or Holmes. *Answer*, I said there was a Warrant against Mr. Taff. There was Warrants for the persons, I believe; but it was not in respect of these persons. Mr. Brereton went down as a Witness. It was in respect to Capt. Williams. *Mr. Smith* delivered his account of money disbursed in Lancashire Trials upon Oath at the Bar (Paper c). *Mr. Vernon and Hopkins* called in again and asked to give some account of what Warrants were given out against Newbury, Cotton, Ward and Holmes. *Mr. Vernon:* There was an information of several persons that met together concerning one Williamson who was committed for treason and disparagement [of] witnesses therein. Some people were agreed to stab and wound and hamstring Brereton. Two or three were brought to the Office to be examined. Mrs. Cotton and Mrs. Ward came to the Office. I asked if she knew Mr. Brereton. She said she knew nothing of Brereton. She never charged him nor knew anything of him. Newbury, when he came, said he heard a

story of Brereton. One Williamson, in Newgate, said he was a witness, and he ought to be destroyed. I believe they were discharged in October. *Ordered* that Mr. Vernon bring copies of the Warrant 5 Oct. *L. Ch. Justice* was asked whether he told anybody of the matter of these Affidavits; and, if he has, who? *L. Ch. Justice* heard: As for refusing to take the Affidavits, I hope I have given satisfaction that I ought not to have taken them. There was nothing of conspiracy in either of the Indictments. Concerning my duty as a Privy Councillor, I was under no duty. I did not credit them. I believed a Plot, and the prosecution was just; and the Queen was acquainted with it. *Moved* to ask the L. Ch. Justice whether he told any person of the matter of the Affidavits. *Proposed* to ask the L. Ch. Justice whether he acquainted Mr. Aaron Smith with these Affidavits. *L. Ch. Justice:* I did send to Aaron Smith and acquainted him what attempt had been made upon me, and that such a thing happened before me concerning the prosecutions in Lancashire. I told him the substance; I believe I did. *Moved* to call in *Mrs. Agnes Barker*, which was done, and she sworn and asked what discourse she had with Taff or Mr. Dickeson concerning Taff. *Answer*, I had none with Taff. I was at Capt. Dickeson's. I said I heard Mr. Taff was come in. He said, Yes, but he cost us dear. *Asked* concerning arms. *Answer*, I have heard of arms in the country, when I was of the other religion. I have changed this two years. I am cousin german once removed to Mr. Dickeson. I have heard of 5 Regiments in Lancashire to be raised when K. James did land. Sir Rowland Stanley bought two horses of my husband. I went over to fetch them away. He told me he expected the king so soon that, if he kept them a little longer, the king would land. He hoped the next moonlight he would come. *Proposed* to call in Mr. Aaron Smith. *Mr. Vernon* brought a copy of the Warrant as entered in the Book, which was read (Paper *d.*) *Mr. George Wilson* sworn and asked what passed between him and A. Smith concerning the Lancashire Plot. *Answer*, Mr. Smith examined me, what I knew of the Plot. I told him I set it down in Baker's chamber. Mr. Manson seized a boat. Dr. Beresford went over into Lancashire. I was advised to go to Mr. Tillsney's Lodge, and there was Commissions seized, and some were for Lancashire. I went with Lunt to L. Molyneux, where he delivered several Commissions, and to Mr. Lee of Limb, and there he delivered more. I told Smith this. Lunt came to Mr. Throgmorton's. At Mr. Wansley's (Walmisley's) at Limb I was, and there was Col. Parker, and Commissions were delivered there. *Asked* what passed between Smith and him of Walmisley's being in England. *Answer*, I saw Mr. Walmsley in Feb. 169$\frac{4}{5}$. I had no discourse; but Mr. Smith said, keep all things private. I am a Protestant and so have been this 3 years. Mr. Smith examined me no further than what I have told. I do not remember Mr. Smith asked me anything else. I do not know I ever saw Mr. Walmsley before or since. *Asked*, Did you see any Commission delivered to Walmsley? *Answer*, I saw Col. Parker deliver him a Commission, and he delivered several blank ones to others. I saw Col. Parker at my house going to Ireland. Col. Parker is a little man, lame of one leg; has a scar on his face. *Question*, How came you to be trusted? *Answer*, I was acquainted with the Lancashire gentlemen about 11 years since, and I absconded there then; and so I came acquainted with them. There was read a Lieutenant Colonel's and Colonel's and a Captain's Commission, and filled up a Commission. The Commissions were in 1691, from K. James. There was K. James read in

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them. I did not read them. *Moved* that he be taken in custody. Order as in L. J., XV. 495. *Mr. Ro: Wintour* sworn and asked if he made out any certioraris for removing indictment out of Lancashire. *Answer*, I made out three, to remove indictments for perjury: Lunt, Womball, Wilson. Mr. Justice Giles Eyre signed these *Certiorari*. They were to the Justices of the Peace for perjury. *Ordered* that Mr. Bell be discharged from attendance. *Mr. Beresford* was then apparently called in and asked whether he had ever made Taf any promise of giving him * * *, but the entry was obliterated, and the order for Smith to give an account of his expenditure in other trials substituted, as in L. J., XV. 495 (MS. Min., 15 Feb.).——On 16 Feb., the House entered into the debate of the matter. Whether Plot or no Plot is not the case. A guilty man ought to be used as if not, *et é contra versat* hard, severe. *Moved* that some resentments be made of the hard and illegal proceedings at the trials. *Moved*, as to the prosecutions directed in Lancashire, that, upon the examinations taken at the Bar of this House it doth appear there was sufficient grounds for directing the prosecutions and trials of the Lancashire gentlemen. *Moved* to declare that this House is of opinion there was preparation for taking up arms by the Papists in Lancashire, and that there was just reason for the prosecutions and trials. No illegality at those trials. A *Resolution* was offered and read as follows:—That it is the opinion of this House that there were sufficient grounds and reasons for the prosecution and trials of the gentlemen in Lancashire and Cheshire. *Moved* to adjourn the debate. Then the Resolution as passed (L. J., XV. 497) was proposed and agreed to, and the further consideration appointed for the 18th (MS. Min., 16 Feb.)——On 18 Feb., the Order being read for resuming what remains relating to the proceedings and trials in Lancashire, *Moved* that Mr. Justice Eyre have leave to go home. *Proposed* that the L. Keeper acquaint the Judge what hath been objected against him. *Moved* to vote that the Judges who sat upon the Trials in Lancashire did act according to their duties and law. *Resolved*, That it is the opinion of this House that the Judges in the late Lancashire Trials did their duty according to law. *Objected* to Mr. Justice Eyre:—(1) *Certioraris* to remove indictments, and he signed them. (2) It was hard the Prisoners' subpœnas without (? withheld) without acquainting Mr. Aaron Smith. (3) When the Court was sitting Mr. J. Eyre called for the Statute in relation to the Judge's power to add to a Grand Jury or alter the Panel. (4) He required the Gentlemen immediately to come to a trial except they make a joint challenge. (5) That, after the Panel brought in, there was an addition of 12 and another time 40. (6) That he refused any Counsel to stand by the Gentlemen. (7) When the Prisoners moved the witnesses should be kept apart, Mr. J. Eyre refused it. (8) This illegal, that when Lunt was asked which was such or such a man, Mr. J. Eyre said that if he could swear they were both at such a place, it was all one. *Mr. Justice Eyre* heard to these particulars, one by one: It is an honour to answer. I remember, by a letter I received from the Duke of Shrewsbury concerning Her Majesty's pleasure, I came to London, and I sent for Smith and bid him go and tell the prisoners they were to be tried in 14 days. *Objection* 1: Mr. Aaron Smith asked me to grant *Certioraris* of perjury for Lunt, &c. I told them if they required *Certioraris*, I must sign them. I could not, *ex debito justitiæ*, deny them, and I could not hurt any by it. I enquired, and Mr. Smith and Beale were misinformed: there was no Indictments. *L. C. Justice of Common Pleas:* Judges are bound to

grant *Certioraris* at the King's command. *Mr. Attorney:* I cannot say they came to me particularly. These are left to the Agents. *Objection* 2, (as to Subpœnas): *J. Eyre:* I never mentioned any such thing. I could not grant blank subpœnas. I told them that what names were given to the Clerk of the Crown, they shall be granted. I never gave any order, but a blank subpœna we cannot grant. I shall grant no blank subpœnas for the King's witnesses. *Objection* 3, (calling for the Statute and reading it): I confess I called for it to be read. When I came into Manchester, there came Mr. Norys and L. Willoughby. They thought us not safe; and, if we pleased, they would bring the militia, which did us good, or our gowns had been pulled over our heads. I did call for the Statute and have it read. *L. Ch. Justice* heard as to the Statute of 3 Hen. VIII., does [it] extend to treason? The Statute has not been frequently practised. This Statute does extend to the case of treason. The Preamble recites the returns of jurors. In the enacting part it extends to all cases. I find Judges have ordered the return of another Grand Jury, and [it] hath passed. At the Old Bailey some debate was had of this, and it was determined there it might be done. October 1681, upon a Precept made and returned, the Panel was reformed and 17 persons returned and sworn and found the Bills. *The other Judges* of the same opinion. *Objection* 4, (required the Gentlemen to be tried except joint challenge): I deny the charge to myself. The Indictments against the 5 Gentlemen were not found until Thursday. They desired longer time. I told them our Commission was not for long time. Sir Wm. Williams said, If you will agree to challenge one for all, we will try you together. I gave them time until to-morrow. I ordered the Sheriff to summon more. The Prisoners said they would join if not tried till Saturday morning. I told them I could make no bargain, and they told the King's Counsel they would join in their peremptorily challenge. I granted their request. I did not try them until Saturday morning. *L. Ch. J. Treby:* It is in every Indictment of Treason, where several men are found in one Indictment, it is in the power of the King's Counsel to try them separately or jointly. It is in the King's choice, and not in the choice of the Prisoners. *Objection 5* (two additions to the Panel, 12 and 40): *J. Eyre:* I remember the Prisoners pleaded not till Thursday night, and a Panel I could not award until time of trial. The Sheriff had given a list to the Prisoners of about 60, and, the time being longer, I told the Sheriff that he should summon as many more as he could, and that he should give the Prisoners the names of * * *. *Objection:* The Order for adding 40 more was after the Prisoners had agreed to join in the challenge. *J. Eyre:* All was done in a breath. The Panel is not a Panel until called for and given into Court. *Mr. Baron Turton* heard: On Thursday the Prisoners pleaded, and there was order given that the Sheriff should give the names he intended to return. On Friday morning the Prisoners desired time until Saturday. They agreed to join. I think they were gone before the motion that there might not be a sufficient number. We thought it reasonable the Sheriff should return a sufficient number. There was no Panel returned into Court until Saturday morning. *L. Ch. Justice* heard, whether by law the prisoner is to have the Panel: By law, I know not that he is to have it before the day of trial. It is practised that he have a copy of what the Sheriff is to return. When it has been desired, I know not it has been denied. *Objection 6* (that he denied Counsel to stand by the Prisoners): I deny there was such a demand or denial.

1694–5. — No. 881. They came to assign Counsel. I told the person I could not assign Counsel. I would allow all Counsel to come to them. They had Attorneys and Counsel at least thirty in Court. *Mr. Baron Turton:* The night we came to town there was two or three Petitions for Counsel. We told them we would concur at any Counsel or friends to come to them. *Mr. Baron Powell* heard: We cannot assign Counsel by law. We agreed he should have assistance. *Objection 7* (witnesses moved to be kept apart and was refused): The Court did refuse that, and we could not do it without the consent of King's Counsel. *I* asked the King's Counsel, and they would not consent; and we could not order it. This was long before any evidence given at all. *L. Ch. Justice* (asked whether the Court might without the consent of King's Counsel, examine witnesses apart): I never knew this done. It is often refused in a civil cause. *Mr. Baron Turton:* It was before any evidence given. *Asked* whether the discretionary power to examine apart was ever practised. *Answer*, I have [not] known it practised in a civil cause. I have known it denied. I never knew it exercised. *Objection 8* (that J. Eyre said, when Lunt mistook, it was all one if he could say both were there): *J. Eyre* heard: I remember, when Lunt came to give his evidence, in pointing, he mistook one for the other. "These two men I can positively swear were both there." I ordered a staff to be taken, and he did lay the staff on the right man's head. I said, That matter, which has caused so much laughter, has not that weight, for he swears the two men were there. They gave particular answers to all the King's evidence, and weeded *it out by* the root. *Moved* that the other Judges at the Trial be examined upon Oath as to matter of fact. Mr. Justice Turton says, he mistook the first time with the stick, but the second he hit right. Mr. Baron Turton, I do not remember he did swear he was with them after. Baron Powell and J. Eyre, I don't find he said he was in their company. This is an astonishing doctrine, that a man may be a good witness and not know him. *Proposed* to ask the Judges whether, if a man mistakes the names of persons, yet swears both were there, it is a good evidence. *Proposed* this resolution, which was read: *It is* the opinion of this House that the Judges who have any way acted in relation to the Lancashire Trials did their duty according to law. The *Question* was proposed, Whether it is the opinion of this House that the Judges who have any way acted in relation to the Lancashire Trials have done their duty according to law. The *previous Question* was put whether this Question shall be put. It was resolved in the affirmative. The *main Question* was put, Whether it is the opinion &c., and resolved in the affirmative. *Resolved* upon the Question by &c., as voted. *Moved* to print the Votes. *Moved* to declare that there hath been an evil and dangerous Plot against the King and Government (MS. Min., 18 Feb. *compare* L. J., XV. 498).—On 22 Feb., on the Order of the day being read, *moved* to declare there was a Plot. *Moved* to print the votes already made in this matter. *Moved* to declare that this House is of opinion that there was preparations in Lancashire for taking up arms against the Government. *Moved* to adjourn the House. After debate, the *Question* was put, Whether this House shall be now adjourned? It was *resolved* in the affirmative by 33 votes to 28, L. Willoughby and L. Gray, Tellers (MS. Min. 22 Feb. L. J., XV. 503).—On 26 Feb. Taff and Wilson were discharged from custody (L. J., XV. 507). No further proceedings]. The papers are as follows:—

(*a*) 1 Feb. Copy of Affidavit of Edward Beresford, as follows:—Edward Beresford, of London, gent., maketh oath. That Mrs. Dicker-

1694-5. — No. 881.

son, wife of Mr. Dickenson, now in custody, having several times desired this deponent to meet, or procure some one to meet one Mr. Taff, who told her that he had some things to say of importance relating to the service of the Cheshire and Lancashire Gentlemen now in prison; and that he desired very much to meet any one that he might declare his mind to. That this deponent having no inclination to meet or converse with him, had put it off for about a week, during which time, as the said Mrs. Dickenson told this deponent, the said Mr. Taff, or his wife, had several times pressed to have some one to meet him. At last, one Mr. Banks, of Gray's Inn did consent to meet the said Taff, saying he would hear what the gentleman had to say, and thought there could be no danger in it, and accordingly did, as this deponent believes, meet the said Mr. Taff on the twenty-seventh day of September last, in the afternoon. That on the twenty-eighth of the same month in the morning early, the said Mr. Taff came to Mr. Banks at his chambers in Gray's Inn, where this deponent also then was. That after some compliments passed betwixt Mr. Banks and Mr. Taff, the said Mr. Taff took occasion to say, that he was very much concerned for those gentlemen that were prisoners (meaning those of Cheshire and Lancashire, as this deponent believes). That he was no witness himself nor any ways concerned, but that there was one Lunt alias Smith, who, he said, was a witness against them, in relation to a plot against the Government, and that he reposed an entire confidence in him the said Taff. That he the said Lunt had often read to him his narrative of the said plot; that he was a loose, extravagant, talking fellow, and would expose and reveal himself at first sight to any one or more that he the said Taff recommended, or to that effect; and further said that Lunt was a great rogue, and he the said Taff proposed to recommend some one to his acquaintance, as a certain means to detect him, or to that effect; that what he proposed was in respect to the Government, as well as truth. That he had great obligations, and was zealous for the interest of the Government. That he began to have a distrust of the plot, and in particular of Lunt's testimony, upon the said Lunt and a messenger going lately to seize young Mr. Blundell, of Crosby, now a prisoner, against whom Lunt was a witness, as the said Taff declared. That he the said Lunt met the prisoner, Mr. Blundell, and asked for Esquire Blundell, and the prisoner showed them up to his father and then left them. Upon this accident the said Taff said he began to conceive a bad opinion of him and his evidence, because he knew not the man against whom he had sworn, or to that effect. That Lunt had often complained to him, that he wanted a man or two, as this deponent supposed, to be evidence in his plot, but he desired one of credit that was a Protestant, and looked like a gentleman, or an Officer; and had often pressed the said Taff to help him to some such, according to his promise. That Mr. Taff further said, that if some gentleman would consent to see him upon his, the said Taff's, recommendation, he questioned not but upon the first or second time of seeing him, he the said Lunt would give the said gentleman what he would have him to swear in writing, relating to his plot, as this deponent believed. He the said Taff pressed this method very much, and said he believed it the only way to discover the roguery thoroughly. Whereupon Mr. Bagshaw, of Gray's Inn, who was then by, consented to meet him, the said Taff, at the Ship ale-house by Temple Bar, at three of the clock in the same day; the said Taff undertaking to bring the said Lunt thither: thereupon Mr. Taff instructed Mr. Bagshaw what to say, and how to behave himself, and

1694–5. — No. 681. so Mr. Taff went away. Mr. Bagshaw afterwards, upon further thought and reflection, was unwilling to go, till he had further consulted what was advisable and safe. And it was agreed that Mr. Banks and this deponent should go to the place named to disappoint the meeting, by telling Mr. Taff the reason of Mr. Bagshaw's not coming, which this deponent did; upon which Mr. Taff seemed very much concerned that he must disappoint Lunt, who was very eager, he said, and would not stay to be sent for, as was agreed, but would come along with him. And the said Taff was particularly concerned that Mr. Bagshaw would not come, because he said he was mightily taken with his countenance. Mr. Taff was very urgent with Mr. Banks or this deponent to stay, though it were only to drink a glass of ale with Lunt, and nothing of business should be talked of; thereupon Mr. Banks consented to stay, and this deponent immediately left him and Mr. Taff together, and went to the Rainbow coffee-house to Mr. Bagshaw. About an hour afterwards or something more, Mr. Banks came to this deponent and Mr. Bagshaw, and all three immediately went into Lincoln's Inn walks, where Mr. Banks gave a relation to this deponent and Mr. Bagshaw of what passed at the *Ship* ale-house betwixt him, Mr. Taff and Mr. Lunt. *Signed* Edward Beresford.

[Delivered this day by Mr. Beresford. MS. Min. *See* Notes above.]

(*b*) 9 Feb.—Petition of Mary Taaffe, wife of Mr. John Taaffe, praying for leave to go to her husband who was taken into custody last night. Petitioner, desiring to see and speak with him, was not admitted.

[Read this day, and leave granted. MS. Min. No entry in L.J.]

(*c*) 15 Feb.—Aaron Smith's Account of what moneys he received for carrying on the prosecutions, and how he has paid and distributed the same:—

Receipts.

	£.	s.	d.
From the Secretaries of State	50	-	-
From the Treasury	500	-	-
" "	300	-	-
£.	850	-	-

Payments.

	£.	s.	d.
To Lunt, for expenses in going down to seize prisoners, &c., 24*l.*, of which 10*l.* repaid by Capt. Baker	14	10	-
To Wilson - - - ditto - - - ditto	15	4	4
To Wombell - - ditto - - - ditto	19	16	8
To Capt. Baker	190	-	-
To others for going to seize prisoners	8	4	6
Expenses connected with 9 horses seized	27	5	-
Expenses in preparing for the trial	45	11	7
To Mr. Thomas Bale towards defraying the charges in the journey and at the trial	250	-	-
To Mr. Urian Brereton for expenses	20	-	-
To Mr. Serjeant Gold to go down to the trial	55	10	-
To Mr. Hawles for same	55	10	-
For King's Counsel's lodgings at Manchester	4	9	-
For expenses of Serjeant Gold and Mr. Hawles	28	11	8
For two coaches and six to Lancashire and back	54	-	-
For one - - ditto - - ditto	30	15	-
His own expenses	24	8	4
Incidental expenses	3	-	-

He brings out a balance of 3*l.* 3*s.* 11*d.* received more than disbursed. *Signed* Aaron Smith. [Delivered by him upon oath this day, pursuant to Order of 5 Feb. (L. J., XV. 479, 496). *See also* Notes above.] 1694-5. — No. 881.

(*d*) 15 Feb.—Copy of entries in Book, of D. Shrewsbury's (1) Warrant to James Kitson, one of their Majesties' Messengers in Ordinary, dated Whitehall, 5 Oct. 1694, for apprehending Mrs. Cotton, Mrs. Ward, *alias* Anvill, and Holmes, together with their papers, for conspiring and endeavouring to suborn witnesses against the lives and credit of several witnesses for their Majesties against persons charged with High Treason, &c.; (2) Similar warrant to Charles Couchman, &c., for apprehending Thomas Cooper, Donelon *alias* Donelaw and Capt. Adams; and (3) Similar Warrant to Charles Morris, one of their Majesties' Messengers in Ordinary, for apprehending Newberry, Hamilton, and Clapton. [Delivered this day by Mr. Vernon. MS. Min. *See also* Notes above.]

882. Jan. 25.—Insolvent Debtors' Estates Bill.—An Act for an equal distribution of Insolvent Debtors' Estates. Whereas many Bankrupts and other insolvent persons now absconded, or in prison for debt, are willing to pay as much as they are able by an agreement or composition which most of their creditors are desirous to accept of, but through the incapacity of Executors, Administrators, Guardians and Trustees to comply therewith, or the unreasonableness of some few creditors who will rather lose their whole debts than consent to any reasonable agreement or composition, such debtors, being out of hopes to see an end of their troubles, grow desperate and waste their estates under such confinements, or transport themselves beyond the seas without making any satisfaction to their creditors, for remedy thereof the Bill enacts provisions mainly borrowed from those of the Bankrupts' Estates Bill of 3 March 1693–4 (N° 815), substituting the word "Debtor" for "Bankrupt," except in Clauses I, III, V, VI, and making the following further alterations:—

Clause I. Where any Insolvent Debtor is now a Bankrupt, or absconded, or in prison for debt, agreements or compositions may be made with the [blank] part in value of the creditors as provided in Clause I of previous Bill.

Clause II. And for the prevention of frauds in making such agreement or composition, every creditor shall, if required by [blank] part, or more, in value, of all the other creditors, within [blank] days after Notice in writing, deliver a duly attested account of the consideration upon which he claims, and shall also make oath in writing that his is a real and just debt, of which neither he nor anyone for him has received any part, or any pledge or other security or satisfaction of the same, other than set forth in the account, and that he has taken no security or promise for any further sum or advantage whatsoever in consideration of his debt or of making the composition.

Clause III. Where any person is both debtor and creditor to any Bankrupt, only the balance shall be taken into consideration.

Clause IV embodies Clause VII of previous Bill as to Extents on debts due to the Crown by creditors, and adds that the goods shall not be sold for [blank] days after the Extent, in order to enable any of the creditors to redeem them.

Clause V is the same as the first part of Clause IV of previous Bill, with the exception of leaving blank the proportion of the creditors, and leaves out the portion as to the Redemption of Mortgages.

1694-5. — No. 882. Clause VI is the same as Clause V of previous Bill, leaving out the opening words of recital, and substituting a blank proportion of the creditors for the Commissioners of Bankruptcy or two thirds of the creditors.

Clause VII provides that any Debtor arrested after a composition, may plead the General Issue and give this Act and the composition in evidence, and recover [blank] damages and [blank] costs.

Clause VIII provides that before a composition be binding the Debtor shall give his creditors a full statement in writing of his affairs, and also produce all his books and papers to them; and he shall also make oath that the statement is true, that he has not disposed of any part of his Estate, nor concealed or tampered with his books or papers, with intent to defraud his creditors; and that he is not possessed of any other property than that set forth in the statement. Then the [blank] part in value of the creditors shall be at liberty, within [blank] days to elect whether to abide by the composition or take the whole real and personal estate of the Debtor into their own hands for the equal benefit of all, the creditors allowing the Debtor what had been agreed on for his subsistence.

Clause IX provides that a Debtor fraudulently concealing his Estate to the value of [blank] shall incur [blank] penalties.

Clause X is the same as Clause IX of previous Bill.

Clause XI provides that this Act shall affect existing mortgages, judgment debts, or assignments or dividends on a Bankrupt's Estate, or decrees concerning a Bankrupt or his Estate.

[Read 1ª this day, and it was ordered that the Judges prepare and bring in a Bill to prevent the present inconveniences in distribution of Bankrupts' Estates on Friday 1st Feb. next, at 11 of the clock, and that this Bill be not read until after a Motion to be read after one of the clock and a day appointed. The Bill was delivered to Mr. Justice Eyre, L. C. Justice Treby, Nevill, and Baron Powell. (MS. Min. and Endorsement of Bill.) The Bill had been offered on 22 Jan., and the 1st Reading appointed for this day, and all the Lords and Judges summoned to attend. L. J., XV. 468, 471. No further proceedings.]

883. Jan. 26.—Wanley's Estate Act.—Amended* *Draft* of an Act to enable William Wanley, an Infant under the age of one and twenty years to new build several messuages or tenements in Ax Yard, King Street, Westminster, [for the better securing the payment of several charges and incumbrances thereon] *and to enable his Guardian to make one or more lease or leases for effecting the same.* The Lords' Amendments were to leave out Clause I. charging the expense of rebuilding, up to 1,200*l.* and interest, on Wanley's other property and Clause II. giving his guardian, Barbara Hutton, power to make 21 year leases of the rebuilt premises; together with a statement in the preamble that Wanley had other property on the South Side of Ax Yard, and in Eyford, Gloucestershire, sufficient to defray the expense of rebuilding, as well as his maintenance &c. during his minority. There were also a few drafting and consequential amendments. The only Amendment made by the Commons was to substitute John Hutton for Barbara Hutton as Wanley's Guardian. [Read 1ª this day. Royal Assent 22 April following. L. J., XV. 472, 562. 7 Will. III., c. 36 in Long Calendar. *See also* Com. Book, Feb. 1, 12.]

884. Jan. 26.—Apothecaries Act (6 & 7 W. & M. c. 4).—Petition of the Lord Mayor, Aldermen and Commons of the City of London in

* Omissions in square brackets, additions in italics.

1694-5. — No. 884.

Common Council assembled, praying to be heard by Counsel on the Bill for exempting apothecaries from serving as Constables, Scavengers &c., and on Juries, as the City of London will be greatly concerned in the consequences thereof. *Signed* Goodfellow [Read this day (L. J., XV. 472). The Bill was brought from the Commons on 25 Jan. (*ib.* 471). On 4 Feb. *Mr. Conyers* was heard for the City: They are encouraged to this by the passage of the Physicians Bill. Their reasons fail in the first beginning of them. The Offices are greater than the attendance of their Patients. If Common Council or Deputy of the Ward, [they] are during lives. They ought not to be excused, because these offices may be executed by deputy; otherwise [the] poor must be burdened with them over and over again. There are two Churchwardens or Overseers of the Poor, or [the] like, and one may execute the office. This is an Estate in fact, and though they administer to the poor, yet the parish pays for it. This is a very improper time for this. In every parish there are more officers than [there] were, by taxes and poor. *Sir Barth: Shore:* Neither their trade, behaviour, nor number ought to exempt them more than any other trade dependent on life. Personal attendance in all trades is needful at all times. They say it is a Mystery. It may be so, of Iniquity. They are to be obedient to their superiors, the Doctors. They may afford a deputy. They pretend their number to be full between two and three hundred. There are 20 in Farringdon Without, and many offices there. There are, say they, 13,000 houses. We say 1000 and 200 Apothecaries. This Bill is unreasonable, since they do not desire exemptions from the great offices. He ought to be disabled from a beneficial office. They are capable of voting. They do not desire to be freed from choosing. *Mr. Cooper* (for the Apothecaries): Stat. 5 Hen. VIII. That excuses Surgeons, and I think we are as peaceable as they. 32 Hen. VIII. c. 42. That incorporates the Barbers with the Surgeons. Our personal presence is necessary. Our assistance is better than no assistance. We see all the Doctors' patients. They not ours. The Universities admit us to these privileges, who are the competentest judges. We are not one in 2,000 people in London. Say they, we can attend on great offices and offices of profit. If we are at leisure, we go to elections; otherwise not. *Sir Tho: Powys* (for same): I hope to show reason to wonder why it has not passed long ago. The attendance of the Apothecary is great. He is first sent for and last left. This Bill is a great concern to the artificers of the City of London. Physicians care as little for paupers as well as others.—Then the Bill was read 2ª and committed. (MS. Min. 4 Feb.)—On 9 Feb., in Select Committee, *Mr. Recorder*, for the City, desires some words may be added to exempt the Apothecaries from being Common Councilmen, Commissioners of Sewers, &c. and Deputies of Wards (*See* Annex *a*). *Sir Tho: Powys* and *Mr. Cooper* opposed the Amendment, which was not made, and *the Recorder* proposed another instead, viz[t], that they may execute the Offices of Constable, &c., by deputy, and this also was opposed. *The Recorder* offers reasons against the last part of the second enacting Clause, desiring the last two lines may be left out. *Mr. Cooper* says the words relate to the country Apothecaries. *The Recorder* proposes the Act may be a probationary law, and gives for reason that it will make the Apothecaries more diligent and obsequious. *Mr. Cooper* says there have been two or three Acts of this kind in Hen. VIII., particularly for Surgeons, and no Clause of Repeal has ever been offered. *The Recorder* offers a Clause to oblige Apothecaries to give physic gratis to

1694-5. — No. 884. the poor that receive alms. *Mr. Cooper* opposes it. *Dr. Bateman* and *Dr. Tallis*, from the College of Physicians, desire a Clause that the Apothecaries may bring their Apprentices to the College to be examined, and that the Apothecaries' bills may be examined. § iii, limiting the Act to seven years, was agreed to be added, by 8 votes to 4* (Com. Book, 9 Feb.). The Bill was reported and read 3ª the same day, and a Rider (Annex *a*) was offered to be added, read twice and withdrawn. The Bill was passed by 37 votes to 18 (MS. Min. 9 Feb.) and received the Royal Assent on 11 Feb. (L. J., XV. 488).]

Annexed:—

(*a*) 9 Feb. Parchment Clause exempting every apothecary in the City and Liberties of London, during the exercise of his trade, from serving as Deputy of the Ward, Common Councilman, Chamberlain, Bridgemaster, Commission Officer in the Militia, or Governor of any Hospital within the said City or Liberties. [Such a Clause was offered by the Recorder this day in Select Committee and rejected. It was offered on Third Reading this day, read twice, and withdrawn (Com. Book and MS. Min. 9 Feb.)]

885. Jan. 29. Barkham's Estate Act.—Amended Draft of an Act for the vesting the Manors of Earle's Croome alias Jeffery's Croome and Baughton in the County of Worcester in Trustees to be sold, and for settling the Manor House and Royalty of Waynfleete St. Mary's in the County of Lincoln and divers lands, parcel of the said Manor, of greater value, to and upon the same uses, and to enable Sir Robert Barkham Bart. to make provision for his younger children. The Lords' Amendments, besides filling in the date of the commencement of the Act, were merely drafting ones. The Commons added, immediately before the Saving Clause, the two Clauses the effect of which is given in C. J., XI. 254. [Read 1ª this day. Royal Assent 22 April following. L. J., XV. 476, 562. 7 Will. III. c. 24 in Long Calendar. *See also* Com. Book, Feb. 5, 8, 13.]

Annexed:—

(*a*) 13 Feb. A particular of Sir R. Barkham's *Estate in* Waynfleete St. Mary's, in 1694. It amounts to £492 *8. 6.* Certified as a true Rental by Wm. Everington, who was examined this day before the Select Committee. Com. Book, 13 Feb.

(*b*) 13 Feb. Same as to Earle's Croome and Baughton, formerly the lands of Mrs. Hester Jefferies, and now belonging to Sir R. Barkham, whom she married. It amounts to £320 1. 10. Certified by Roger Brooke, who was examined this day before the Select Committee. Com. Book, 13 Feb.

(*c*) 13 Feb. Consent of Sir Robert Sheppard, one of the Trustees, to the Bill. *Dated* 5 Jan. and *attested* by Thomas Bolton. [Produced before the Select Committee this day. The other Trustees gave their consents in person. Com. Book.]

(*d*) 13 Feb. Lords' Amendments in Select Committee this day. They are described above. Com. Book.

886. Jan. 31—Feb. 27. Navy (State of the Nation).—Papers delivered to the House between these dates, connected with Naval Affairs. [On 22 Jan., in pursuance of the King's Speech (L. J., XV. 430), the House was moved that a day might be appointed to consider the State of the Nation, and an Order was made accordingly (L. J.,

* The only other amendment was a verbal one.

XV. 468).—On 25 Jan. the House went into debate on the State of the Nation, on the following points, (1) The Lancashire Plot, (2) The condition the Nation may be in if the King goes beyond sea, (3) The Fleet's condition, (4) The money, and the King's recommendation to the Parliament to consider of the easiest ways to prevent its transportation at the least charge, and (5) The Bank,—whether it is a good constitution or not. *Moved* that the first thing to be enquired into should be the Bank. *Moved* that Monday be appointed for consideration of the Bank. After debate, question put whether a day shall be appointed to take into consideration the debate concerning the Bank of England. *Resolved* in the negative by 33 votes to 23 ; E. Radnor and E. Nottingham Tellers. *Moved* that a day may be appointed for the examination of the Lancashire Trials, and *Ordered* as in L. J., XV. 471. *Moved* that a day may be appointed to consider the state of the Fleet, and a day was appointed and Sir Geo. Rooke, Sir John Hubland (Houblon) and Mr. Priestman, together with one of the Secretaries, from the Admiralty, and John Agar, one of the Commissioners of the Victualling Office, were ordered to attend (L. J., XV. 471 ; MS. Min. 25 Jan.)] The Papers are as follows :—

(*a*) 31 Jan. Papers delivered this day by M. Normanby (D. Shrewsbury being sick), pursuant to Address of 26 Jan. for any Orders from the Council or the Secretaries of State relating to the expedition of the Fleets last summer (L. J., XV. 472, 475). They are as follows* :—

(*a*)[1]. Copy of Order under the King's Sign Manual to the Commander in Chief of the Scanderoon Convoy to proceed with his convoy to Smyrna, where he will receive further Orders. *Signed*, by His Majesty's command, J. Trenchard. *Dated* Whitehall 30 March 1694. *Certified* by Tho: Hopkins. *Numbered* 14.

(*a*)[2]. Copy of similar Order to the Commander in Chief of the ships in the Mediterranean, referring to preceding Order, and directing him to send an advice boat or small frigate to the Commander of the Convoy of the Turkey ships at Smyrna with instructions when and how to come away, as the posture of affairs may then require. *Signed*, *dated* and *certified* as preceding paper, and *numbered* 15.

(*a*)[3]. Copy of Instructions under the King's Sign Manual to his Councillor Edward Russell Esq., Admiral of the Fleet. It being not yet known in what manner the French will dispose of their Fleet this summer, Admiral Russell is directed (1) in case the French Fleet is at Brest or Belle Isle, to attempt to burn or destroy it ; (2) in case he hears it is at sea, to search for it, but not to go beyond the latitude of Finisterre ; and (3) in case he has trustworthy information that it, or part of it, has gone to the Mediterranean, or south of Finisterre, to follow and attack it. The Admiral is not to wait for further Orders, but is to report from time to time to a Secretary of State and to the Admiralty. *Signed* and *certified* as above. *Dated* Kensington 24 April 1694. *Numbered* 1.

(*a*)[4]. Copy of Order, under the King's Sign Manual, to Rear Admiral Nevill, or to the Commander in Chief of the Mediterranean Squadron, that the ships not employed for convoys should be supplied with water and other necessaries, so that they may be ready to execute any Orders within six hours after receiving them. This Order is not to be communicated to any other person but Vice Admiral Calemburg.

* On 7 Feb. these Papers were ordered to be signed by Mr. Secretary Trenchard's Secretary, as true Copies (MS. Min. 7 Feb.)

1694-5. — No. 886. *Signed* and *certified* as above. *Dated* Whitehall 2 May 1694. *Numbered* 2.

(*a*)[5]. Copy of Order, under the Queen's Sign Manual to Sir Cloudesley Shovell, Knt., Vice Admiral of the Red, to take on board his ships at Spithead Lieut. Genl. Talmash and as many of his troops as possible, and join Admiral Russell. *Signed* By Her Majesty's Command, J. Trenchard. *Dated* Whitehall, 11 May 1694. *Certified* as above. *Numbered* 5.

(*a*)[6]. Copy of similar Order to Lieut. Genl. Talmash, referring to preceding, and directing him to give orders for embarkation, and, when he shall have joined Admiral Russell, to advise with him or, in his absence, with the Commander in Chief of such ships as he may send with him, how best to employ the troops for annoying the enemy. *Signed, dated* and *certified* as preceding, and *numbered* 3.

(*a*)[7]. Copy of similar Order to Admiral Russell, referring to preceding Order, and directing him to help General Talmash to carry out such designs as shall be agreed upon between them; but he is still to carry out his former instructions (Paper *a*[8]), leaving some one else to carry out this Order, if he himself think fit to go in person into the Mediterranean or south of Finisterre. *Signed, dated* and *certified* as preceding, and *numbered* 4.

(*a*)[9]. Copy of similar Order to Sir Cloudesley Shovell, directing him, in case the wind continues contrary, to disembark the troops and wait for Admiral Russell at St. Helens; but, if the wind is fair, to sail, either with or without the troops, landing those on board, or embarking the rest, whichever may take the least time, and join Admiral Russell at Torbay, leaving such bomb vessels or victuallers as are not with him to follow; the land forces, if on board, to have the same rations as the seamen out of the sea provisions. *Signed* and *certified* as preceding. *Dated* Whitehall 21 May 1694. *Numbered* 7.

(*a*)[9]. Copy of similar Order to Admiral Russell, referring to preceding Order, and authorising him to land the troops at Torbay or elsewhere, in order to shift them from one ship to another, if necessary. *Signed, dated* and *certified* as preceding. *Numbered* 6.

(*a*)[10]. Copy of similar Order to Lieut. Genl. Talmash, referring to the Order to Sir Cloudesley Shovell (*a*).[8], and authorising him to land his men, as in preceding Order, if required by Admiral Russell. Signed *dated* and *certified* as preceding. *Numbered* 8.

(*a*)[11]. Copy of similar Order to Rear Admiral Nevill, putting him under the orders of Admiral Russell or the person appointed by him to command in his stead the Squadron sent to the Mediterranean. *Signed* and *certified* as preceding. *Dated* Whitehall 24 May 1694. *Numbered* 9.

(*a*)[12]. Copy of similar Order to John, Lord Berkeley, Admiral of the Blue, to take on board his ships Major Genl. Charles, E. Macclesfield and ten battalions of Foot, and make such attempts on the coasts of France as shall be thought most advisable at a Council of War. *Signed* and *certified* as preceding. *Dated* Whitehall 23 June 1694. *Numbered* 10.

(*a*)[13]. Copy of similar Order to Major General Charles, E. Macclesfield, corresponding to preceding, *mutatis mutandis*. *Signed, dated* and *certified* as preceding. *Numbered* 11.

(*a*)[14]. Copy of Instructions, under the Queen's Sign Manual, to Admiral Russell, directing him to remain, with his fleet, in the Mediterranean till further orders, keeping it, or part of it, at sea, as he shall think fit, for the better annoying the enemy, and protecting the trade of

the Subjects and Allies, so long as consistent with its safety. *Dated* Whitehall, 14 Aug. 1694. *Certified* as preceding, *Numbered* 13.

(*a*) [15]. Copy of Order, under the Queen's Sign Manual, to Capt. Simcock, Commander of the *Tiger Prize*, or to the Commander in Chief of the convoy to the Turkey ships, directing him, at the request of the Levant Company, to obey Admiral Russell's orders, in spite of the Order of 30 March (Paper *a* [1]), which differs in some particulars from Orders sent by Admiral Russell on 25 July. *Signed* and *certified* as above. *Dated* Whitehall 21 Aug. 1694. *Numbered* 12.

(*b*) 4 Feb. Copies of Orders issued by the Admiralty delivered by the Commissioners this day pursuant to the first Order made on them on 31 Jan. (L. J., XV. 475, 477). The papers* are the following :—

(*b*). [1] 4 Feb. Copies of Orders given to the Fleets in the Mediterranean and Channel relating to the expeditions the last summer, *signed* by divers of the Commissioners, and (by their command) by J. Sotherne as to the first nineteen, and by W. Bridgeman as to the remainder, and certified by the latter. The Orders are :—

(1). 19 March, 1693–4, to the Chief Flag Officer at the Nore, to send his third rates and downwards, which have been paid, to the Downs.

(2). 26 March, 1693–4, to Vice Admiral Lord Berkeley, or to the Chief Flag Officer at the Nore, excepting those ordered out on particular services, in similar terms, but including vessels not paid.

(3). 27 March, 1693–4, to Admiral Sir George Rooke, Knt., to take command at the Downs and make ready for sea.

(4). 30 March, 1693–4, to Rt. Hon. Edward Russell, Esq., to take command of, besides other ships which may from time to time be sent to him, the following ships, set out in a Schedule, viz. :—

Rate.	Ships' Names.	Where at Present.
1	*Britannia*	Nore.
	Sovereign	
	Royal William	Chatham.
	London	Blackstakes.
	St. Andrew	Portsmouth.
	Queen	Hope.
2	*Duke*	Blackstakes.
	Neptune	Portsmouth.
	St. Michael	
	Vanguard	
	Ossory	Buoy of the Nore.
	Duchess	
	Albemarle	
	Sandwich	
	Katherine	Chatham.
3	*Hampton Court*	Ordered Convoy to the Goree.
	Kent	

* On 7 Feb. the Clerk was sent to the Admiralty to have these papers signed (MS. Min., 7 Feb.).

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Rate.	Ships' Names.	Where at Present.
3	*Restoration*	Downs.
	Captain	
	Burford	
	Lenox	
	Bredah	Nore.
	Monmouth	Downs.
	Hope	
	Suffolk	
	Expedition	
	Torbay	Nore.
	Dreadnought	
	Resolution	Portsmouth.
	Berwick	
	Devonshire	
	Humber	
	Lion	Longreach.
	Monck	Plymouth.
	Russell	Gone to Cadiz.
	Plymouth	
	Defiance	
	Stirling Castle	Downs.
	Grafton	
	Cornwall	Blackstakes. Ordered to Chatham to refit.
	Northumberland	Blackstakes.
	Swiftsure	Coming from the Canaries.
	Dunkirk	Cruising off Cape Clear.
	Mary	
	Essex	Cruising off Broad Fourteens.
	Edgar	
4	*Woolwich*	Woolwich.
	Oxford	Longreach.
	Canterbury	Ordered Convoy to the Goree.
	Greenwich	Convoy from Leith to Scotland. (sic)
	Newcastle	Downs. Ordered Convoy to Ostend.
	Medway	Coming from the Canaries.
5	*Charles* Galley	Gone Convoy to Gothenburg.
	Adventure	Cruising off Cape Clear.
	Sorlings	At Shoreham.
	Shoreham	Gone Convoy to Gothenburg.
6	*Greyhound*	Ordered to cruise between Jersey and Guernsey.
	Lark	Plymouth.
	Goodwin Prize	Portsmouth.

Rate.	Ships' Names.	Where at Present.
Fireships	*Flame*	Ordered into Sheerness to clean.
	Griffin	Nore.
	Strombolo	
	Speedwell	
	St. Paul	
	Charles	
	Etna	Longreach.
	Vesuvius	
	Blaze	
	Machine	
	Joseph	Portsmouth.
	Roebuck	
	Hawk	
	Owner's Love	
	Phœnix	River of Thames.
	Firebrand	
	Hunter	Gone to the Canarics.
	Two	Coming from Cadiz.
	New One	At Shoreham, building.
Bomb Vessels.		
6	*Kitchen*	Deptford.
	Salamander	
5	*Granada*	
	Firedrake	
6	*Portsmouth*	
	Phœnix	Portsmouth.
	Julian	Chatham.
Hospital Ships.		
5	*Siam*	River.
	Bristol	
	London Merchant	Portsmouth.
	Society	
Brigantines.	*Shark*	River.
	Discovery	
	Diligence	
	Despatch	Gone to press men for Sir Geo. Rooke,

And proceed with the Dutch Fleet, to the westwards, and do his best to harass the enemy, without expecting particular Orders, and to protect the trade passing in and out of the Channel. The hatches of all prizes taken are to be spiked up to prevent embezzlement, and their papers are to be sealed up. Mr. Russell is to report from time to time.

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(5) 11 April 1694, to L. Berkeley, to make all possible despatch to the Downs with the great ships, as 20 great ships, supposed to be French, were seen off the Start on Sunday last.

(6) 11 April 1694, to Sir George Rooke, giving him the same intelligence, and ordering him to keep his ships together until the arrival of those from the Nore, when he is to sail with all the ships at the Downs and the Dutch men of war to Spithead, and order the ships in Portsmouth Harbour to join him there.

(7) 11 April 1694, to Rear Admiral E. Danby, or, in his absence, the Commander in Chief of the ships at Spithead, giving him the same intelligence, received from Capt. Munden, Commander of the *St. Michael*, and directing him to order the ships at Spithead into Portsmouth harbour, and to stop the *Foresight* from proceeding to Jersey and Guernsey, and the Portugal convoys from leaving Cowes or South Yarmouth.

(8) 12 April 1694, to same, cancelling preceding Order, as the supposed French vessels are believed to have been the Canary Fleet. But the ships at Spithead are to be ready to run in in case of further intelligence.

(9) 20 April 1694, to Admiral Russell, putting the men, on sailing from the Downs, on short allowance of victuals (⅔ rations), drink excepted, the deficiency being made up to them monthly in money.

(10) 23 April 1694, to same, directing him to take his Orders and Instructions from the King or Queen.

(11) 25 April 1694, to same, putting his men on short allowance of drink also, with compensation, as in No. 9 above.

(12) 11 May 1694, to Rear Admiral Nevill, on board the *Royal Oak*, to have his ships refitted for sea, and wait for Orders, instead of sailing for Cadiz. Credits for the refitting and for the men's short allowance money have been ordered.

(13) 15 May 1694, to Vice Admiral Sir Cloudesley Shovell, Knt., at Spithead to put the Fleet in a condition to sail forthwith, and proceed according to Admiral Russell's orders. He is to keep the tenders lately discharged, and employ them upon the present service.

(14) 17 May 1694, to Admiral Russell, to prevent the sale of provisions out of the King's ships.

(15) 17 June 1694, to L. Berkeley, at Spithead, to send four ships to join the squadron cruising under Vice Admiral Hopson at the Broad Fourteens off Holland.

(16) 22 June 1694, to same, to make his ships ready for sea.

(17) 30 June 1694, to same at St. Helens, putting his men on whole allowance of beer.

(18) 3 Aug. 1694, to Sir Cloudesley Shovell, at St. Helens, ordering him and his fleet to the Downs, with the machine vessels and bomb vessels, including the *Star* and *Owner's Adventure*, and with the *Lancaster*, *Kent*, and *Monck*.

(19) 22 Aug. 1694, to L. Berkeley, at the Downs, to consult what attempts may be made on some French men of war in Dunkirk roads, and report.

(20) 23 Aug. 1694, to same, to send his first and second rates to the Nore, and out of their complements to man his machines, shallops and tow-ships, and to prepare them for sea together with the bomb vessels and the remainder of his fleet, with the assistance of Mr. Stock, Muster Master and Store Keeper at Deal.

(21) 24 Aug. 1694, to Sir C. Shovell, to take the ships lately under L. Berkeley's command (except the first and second rates) and some

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Dutch ships, and sail to Flanders, and there take command of the ships under Vice Admiral Hopson. He is then to attack the French ships in Dunkirk roads, as well as the town, and let none of the ships escape. Mr. Meesters is gone to Ostend or New Port, to secure Dutch Pilots. Surplus third rates to be left at the Downs. When this service has been performed, or if it is judged impracticable, Sir C. Shovell is to return to the Downs, bringing with him such of Hopson's third rates as are unfit for sea, and leaving others in their stead. He is also then to send two fifth rates to Yarmouth to protect the herring fishery.

(22) 31 Aug. 1694, to same, to sail with his squadron, except the following:

Stirling Castle	*Sally Rose*
Charles Galley	and two well-fitted
Sapphire	fireships,
Smyrna Factor	

and with such Dutch ships as L. Adm. Almond has appointed, to the coast of Flanders, and, on joining Adm. Hopson, to order the latter to the Downs with the *Dreadnought* and *Portland*, sending the *Hope*, *Lion* and *Greenwich* to the Buoy of the Nore for further orders. He is to do his best to keep the enemy's ships from going to sea, if he finds the attack impracticable, but to send away his bomb vessels, machines, &c. in that case. He is also to send Admiral Hopson to the Downs with two vessels, and three other vessels are also ordered there.

(23) 5 Sept. 1694, to same, to countermand the orders he sent to Hopson to come to the Downs, as he was particularly ordered not to send him to the Downs until he had joined him.

(24) 6 Sept. 1694, to same, to take with him to Dunkirk any fifth and sixth rate ships he may think fit, which had been ordered to remain at the Downs.

(25) 6 Sept. 1694, to same, to make use of the

Charles Galley	*Smyrna Merchant*
Sapphire	and *Sally Rose*

sent to him, and then send them to the Downs, as they will be wanted to guard the herring fishery.

(26) 10 Sept. 1694, to same, to go on from Dunkirk to Calais, and destroy it, having first sent off the

Dreadnought	*Monck*
Portland	and two fireships
Smyrna Factor	

to the Sound, and the

Charles Galley	*Unity*
Smyrna Merchant	*Sapphire*
Sally Rose	and *Garland*

to the herring fishery.

(27) 14 Sept. 1694, to same, to keep such of the vessels, mentioned in preceding, as he may require, as he has asked for three or four frigates for the attack on Calais.

(28) 19 Sept. 1694, to same, to return to the Downs after the attack on Calais, and send the *Greenwich* to the Nore. Hopson's squadron has been recalled from before Dunkirk.

(29) 12 Nov. 1694, to Admiral Russell, to send back four third rates to the Downs instead of four which are convoying victualling and store ships to Cadiz, and are ordered afterwards to put themselves under his command. The *Rupert* will come out with this convoy, and is to be sent on to the Canaries, to join the Canary Convoy.

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[*Numbered* 1, and *endorsed* as read on 7 Feb., whereupon it was proposed to call in the Commissioners and ask them some questions. They were called in and asked (1) What force Admiral Rooke had in the Downs, and at what time, and what stay the fleet made in the Downs. *Answer*, If I had time to consult my Journals I can tell. The other questions were read to them. MS. Min., 7 Feb.; *compare* L. J., XV. 482.]

(*b*)[2]. 4 Feb. Copies of Orders to the Convoys of the Storeships and Victuallers that went to the Straits before Christmas last, *signed* with the initials of divers of the Commissioners and (by their command) of W. Bridgeman, and certified by the latter.

The Orders are :—

(1) 9 Aug. 1694, to Capt. Robt. Robinson, Commander of the *Suffolk*, to convoy with his own ship and the *Edgar*, to Cadiz, fourteen vessels named in the margin, laden with provisions for the fleet in the Straits, together with the hagboat *Suffolk*, laden with stores, and other vessels, if they reach Spithead in time.

(2) 10 Aug. 1694, to same, sent by express at 7 p.m., to remain at Spithead till further Orders.

(3) 16 Aug. 1694, to same, to carry out the Orders of the 9th, and deliver a packet to Admiral Russell.

(4) 17 Aug. 1694, to the respective Commanders of any two men of war cruising in the Soundings which shall be met by the *Suffolk* and *Edgar*, to put themselves under Capt. Robinson's orders, and accompany the Convoy to 100 leagues beyond Scilly.

(5) 12 Nov. 1694, to Capt. Dilks, Commander of the *Rupert*, to convoy with his own ship and the *Ipswich*, *Lancaster*, *Isabella* Yacht, and *Josiah*, to Cadiz, three ships with stores for the Mediterranean fleet, and as many other storeships or victuallers as may be ready, together with some ships at Plymouth bound for Cadiz and the Straits, and any others he may fall in with. He is to put the men on short allowance of provisions as soon as he has left the Channel, promising them compensation in money. He is to take with him, as far as the North Cape, two of the men of war cruising in the Soundings. He is also to take on board Capt. Tho: Wilshaw, one of the Navy Commissioners, Capt. Ayles, a Victualling Commissioner, and his Assistant, a Master Attendant, a Master Shipwright, a Clerk of the Survey, and a Master Caulker, with their clerks, who are to assist in making the fleet at Cadiz ready for sea, and they and their servants are to be victualled in like manner as the ships' Companies.

(6) 12 Nov. 1694, to the Commander of any of the men of war cruising in the Soundings (in duplicate), to accompany Capt. Dilks' convoy to the latitude of the North Cape and then immediately to return.

(7) 25 Nov. 1694, to Capt. Dilks, finding fault with him for not having sailed, and directing him to sail at once, taking the *Ipswich* with him, even though she has but six weeks' provision on board.

[*Numbered* 2. On 7 Feb. it was *moved* to have the Orders to the convoys that are now arrived in the Mediterranean. *Ordered* accordingly. What was the strength of the convoys that were sent, &c. *See* L. J., XV. 482, last question. (MS. Min., 7 Feb.)]

(*b*)[3]. 4 Feb. Copies of Orders to the Victuallers for supplying the Fleets in the Mediterranean and Channel for the last year. They are all addressed from the Admiralty to the Navy Board, begin "Gentlemen," and end "So we remain Your affectionate friends." *Signed* by

divers of the Admiralty Commissioners and *certified* by Bridgeman. They are as follows :— 1694–5.

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(1) 1 Jan. 1693–4, to provision the ships designed for the main fleet with 4 months dry provisions from 1st May, and 8 weeks beer to 1st and 2nd rates, and 10 weeks to 3rd rates and under; the remainder of the beer to be sent in victualling ships. The same extraordinary allowance of Water Cask to be made as last year. All the provisions to be in kind. The Victualling Commissioners to provide 4 vessels of 200 tons each to accompany the fleet laden with water. Appended is a list of the ships referred to, which consists of the same ships as the list in (*b*)[1] (4) above, with the following changes :

First Rates : *Royal Charles* instead of *Queen.*

Third Rates : *Boyne* instead of *Mary.*

Fifth Rates and brigantines omitted.

Fireships : Two new ones building in the River, one new one bought in the River, one prize at Plymouth, and two gone to Cadiz,

instead of

Vesuvius, Blaze, Phœnix, Firebrand, two coming from Cadiz, and the new one building at Shoreham.

Bomb Vessels : *Julian* omitted.

(2) 28 March 1694, to replenish the provisions of the above ships from time to time, so that they may be fully provisioned when they sail.

(3) 2 May 1694, to order the Victualling Commissioners to send list of victualling ships in the river, stating in what readiness they are to sail, and to order them to the Nore.

(4) 12 May 1694, to order the Victualling Commissioners to provision Sir Clo : Shovell's line of battle ships for 4 months.

(5) 24 May 1694, to order the Victualling Commissioners to report how far the above Order (1) has been carried out, stating what provisions have been furnished in kind, and what by credits, and how the credits have been supplied.

(6) 24 May 1694, to order the Victualling Commissioners to report why the fleet is still one month short of the 4 months provisions ordered, as reported by the Admiral, and that they take care to have the short allowance money paid to the seamen.

(7) 3 June 1694, to order the Victualling Commissioners to provide one month's dry provisions to the whole fleet.

(8) 13 June 1694, to send to Admiral Russell the short allowance money for the ships gone to the Straits under his command (named in a schedule), viz. :—

1. *Britannia.*
   Sovereign.
   St. Andrew.
2. *Duke.*
   Sandwich.
   Ossory.
   Albemarle.
   St. Michael.
3. *Cornwall.*
   Humber.
   Torbay.
   Russell.
   Berwick.
   Lenox.
   Essex.
   Restoration.
   Bredah.
3. *Expedition.*
   Grafton.
   Resolution.
   Monmouth.
   Burford.
   Mary.
   Plymouth.
   Devonshire.
   Northumberland.
4. *Canterbury.*
   Medway.
   Sunderland.
   Newcastle.
   Southampton.
   Dragon.
5. *Adventure.*
   Portsmouth.
6. *Lark.*
   Greyhound.
   Goodwin Prize.
   Society Hospital ship.
   Diligence Brigantine.
   Spy Advice Boat.
   Fireships :
   Vulture.
   Flame.
   Griffin.
   Strombolo.
   Etna.
   Vesuvius.
   Phœnix.
   Firebrand.
   Hunter.

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together with 20,000*l.*, by Credits divided between Cadiz, Alicant and Genoa, for beverage and contingencies; and to order the Victualling Commissioners to send him out to Cadiz, in merchant ships, 2 months' dry provision on whole allowance.

(9) 15 June 1694, to inform the Victualling Commissioners, in answer to their queries, that the short allowance money for the Straits fleet is to be proportioned according to amount of provisions the ships have, and the full amount is to be sent at once. The 20,000*l.* for beverage and contingencies is to be all ordered at once. The Straits fleet includes Admiral Russell's ships and those at Cadiz with Rear Admiral Nevill.

(10) 15 July (*sic*) 1694, to cause the credits for the 20,000*l.* to be ordered at Cadiz, Alicant and Genoa in such proportions as they think fit.

(11) 17 June 1694, to divide the credits for the 20,000*l.* equally between the three towns. The victualling ships to go to Cadiz or attend the fleet, as Admiral Russell shall direct; and to supply any deficiency in flesh with flour or suet. Enclose account by Admiral Nevill of the provisions in his Squadron.

(12) 18 June 1694, to ask whether the Credits for the 20,000*l.* and the short allowance money will be ready to go tomorrow by the *Groyn* Packet Boat.

(13) 26 June 1694, to Admiral L. Berkeley, at St. Helens, to leave behind him two out of the *Stirling Castle*, *Suffolk* and *Edgar*, to convoy the victualling ships to Admiral Russell.

(14) 5 July 1694, to the Navy Board, to furnish the *Edgar* and *Suffolk* and the *Mortar* and *Star* bomb vessels, at Portsmouth with 6 months dry provisions, and as much wet as possible, for a voyage to the Mediterranean.

(15) 1 Aug. 1694, to prepare stores and provisions for Admiral Russell's fleet in Cadiz Bay, in case it should be directed to remain in those seas next winter.

(16) 24 Aug. 1694, to provide 3 months dry provisions for Admiral Russell's fleet.

(17) 25 Sept. 1694, to get 3 months more dry provisions ready to be sent out about Christmas.

(18) 27 Sept. 1694, to order the Victualling Commissioners to hire ships to carry out the provisions ordered in (16), and to send them out without any loss of time.

(19) 28 Sept. 1694, to order the Victualling Commissioners to send Admiral Russell credits for short allowance money.

(20) 2 Oct. 1694, to take particular care to despatch the provisions ordered for Admiral Russell without delay.

(21) 6 Oct. 1694, to inform the Victualling Commissioners, in answer to their letter, enclosed in one from the Navy Board of the 4th, and asking what credits should be sent out, and whether the ships at home or those abroad should have the preference in being victualled, that the credits should be for all sorts of provisions, and that all the ships, as well at home as abroad, must be provisioned as soon as possible.

(22) 12 Oct. 1694, to send out credits with Capt. Wilshaw to Cadiz.

(23) 5 Nov. 1694, to order the Victualling Commissioners to hasten to the Downs the provision ships already laden, and send the rest thither as soon as loaded.

(24) 30 Nov. 1694, to order the Victualling Commissioners, in answer to their complaint that they want money to complete the order

in (17), to execute the said order with all possible despatch, and solicit the Treasury for the money.

(25) 3 Dec. 1694, to report in what forwardness the provisions ordered in (17) are to be sent away, orders having been given on 24 Nov. to hire ships to take them out (*see* next Order).

(26) 24 Nov. 1694, to order the Victualling Commissioners to hire ships to take out to Admiral Russell the provisions ordered in (17), and to give timely notice when they will be ready to sail, so that a convoy might be provided.

(27) 10 Dec. 1694, to order the Victualling Commissioners to hasten the ships with first three months' provisions to the Downs, and thence to Spithead, as the King had asked in what forwardness they were.

(28) 13 Dec. 1694, to report when the ships with the provisions ordered in (17), together with the bomb and machine vessels now fitting, will be ready to sail, the King having desired that they should be sent away by the beginning of January; also to report how they propose to send out the marine soldiers ordered out, and 2,000 more land soldiers, if ordered out with them, and how soon, and at what cost.

[*Numbered* 3, and *endorsed* as read on 11 Feb. *See also* MS. Min. *and* L.J., XV. 488.]

(*b*)[4]. 4 Feb. Copies of Orders to the men of war that went to the West Indies last year. (*Signed* and *certified* like preceding.) They are:—

(1) 3 Apr. 1694, to Capt. Simmons, of the *Hampshire*, at the Downs, to convoy merchant ships to Jamaica, picking up at Spithead, on the way, the *Experiment*, which is to obey his orders. At Jamaica, he is to obey the orders of the Lieut. Governor, and not to impress seamen without his leave. If ready to sail at the same time as the *Kingfisher* and *Coronation*, the convoy for Virginia and Maryland, he is to keep them company as far as possible, obeying the orders of Capt. Hicks of the *Kingfisher*.

(2) 3 Apr. 1694, to Capt. Wilkins of the *Experiment*, to join Capt. Simmons and obey his orders.

(3) 18 Apr. 1694, to Capt. Simmons, to accompany the *Bristol* until within sight of Barbadoes, and then go on to Jamaica, carrying out his previous orders (1).

(4) 3 May 1694, to same, to get as many seamen as possible, either by impressing or entertaining volunteers, taking those not required for his ship to Jamaica, for the ships in those parts. The like Order to Capt. Wilkins.

(5) 3 May 1694, to Capt. Weghman, of the *Play* Prize, bound to Barbadoes, similar to preceding, *mutatis mutandis*. The like Order to Capt. Gourney of the *Bristol*, also bound to Barbadoes.

(6) 8 May 1694, to Capt. Weghman, to wait at Plymouth Sound for the *Bristol*, and accompany her to Barbadoes, placing himself under the orders of her Commander. At Barbadoes he is to place himself under the orders of the Governor, for the security of the trade.

(7) 8 May 1694, to Capt. Gourney, of the *Bristol*, to convoy the merchant ships bound to Barbadoes, Jamaica, and the Leeward Islands, together with the *Hampshire*, *Experiment* and *Play* Prize, which are placed under his orders, as far as Barbadoes, the *Hampshire* and *Experiment* going on with their convoys to Jamaica. At Barbadoes he is to place himself under the orders of the Governor, for the security of the trade.

(8) 8 May 1694, to Capt. Simmons, to obey the orders of Capt. Gourney while in his company.

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(9) 10 May 1694, to Capt. Weghman, at Plymouth, to proceed with all speed to Spithead, for his ship to be paid; but, if he meet the *Bristol*, to join her, and carry out his former orders (6).

(10) 11 May 1694, to Capt. Gourney, appointing him Commander in Chief of the four ships ordered to the Caribee Islands, whenever, in the judgment of the Governors, there is occasion to join the ships for their mutual defence.

(11) 18 May 1694, to Capt. Simmons, to disembark some soldiers he has received on board to take to the West Indies.

(12) 18 May 1694, to same, repeating in effect the instructions given in (3) and placing him under the orders of Capt. Gourney while in his company.

(13) 18 May 1694, to Capt. Wilkins, placing him under Capt. Simmons' orders.

[*Numbered* 4, and *endorsed* as read on 13 Feb. *See also* MS. Min. 13 Feb. This day the L. Berkeley delivered his order for proceeding to Camarett Bay, pursuant to Order of the 11th, and the accounts received from the Commissioners concerning the West India Fleet was read. MS. Min. *See also* L. J., XV. 491.]

(*c*) 4 Feb. Papers delivered this day by the Commissioners of Transports, pursuant to Order of 31 Jan. (L. J., XV. 475, 477). They are as follows :—

(*c*)[1]. 4 Feb. Summary of the Proceedings of the Commissioners of Transportation, upon the Orders they received concerning the expedition in the Channel in 1694; and Journal of Robt. Henley, one of the said Commissioners, sent, by order of the Rt. Hon. Mr. Secretary Trenchard, to Portsmouth :—

April 14, 1694.—Received orders to provide shipping to transport a Regiment of Horse from Portsmouth to Flanders, and sent orders accordingly to Mr. Weaver, at Portsmouth, for ships and 10 days' provisions for 450 men and horses.

April 21.—Advised him that they had secured the *Advice*. Urge him to do his best, in spite of his report that there are none but small coasting vessels at Portsmouth.

April 26.—As no more ships could be had at Portsmouth, had hired here the *John and Elizabeth*, which would take 70 horses.

April 28.—Urged on the fitting of the *Advice*.

May 3.—Only 150 horses were to be carried. The *John and Elizabeth* would sail with the first convoy.

May 3.—Applied to the Admiralty for a convoy.

May 7.—General Talmash having applied for one month's provisions for 150 men, gave Weaver orders therefore, deducting one third sent from here. The *Advice* engaged by the month instead of by the head.

May 8.—Sent him exact list of provisions required.

May 12.—Referred him to General Talmash for orders for shipping the provisions.

May 13.—Wrote to him to satisfy General Talmash that the provisions were ready, and the *Advice* had been taken by the month. Desired him to take into the Transport Service 1,200 or 1,400 tons of the victualling ships, as they would probably be required for some sudden expedition. One of the Board would be there in a day or two.

May 26.—Directed him to continue supplying extra forage for the 135 horses which had been shipped, but were detained by contrary winds.

May 28.—Informed Mr. Secretary Trenchard of this, and that more transports could be had at Portsmouth if necessary.

May 31.—Informed Mr. Weaver that several of the bills he had drawn had been paid, and desired him to continue to supply the ships while in harbour.

Mr. Henley's Journal is to the following effect:—In consequence of an intimation from Mr. Secretary Trenchard on the 13th May, started from London on 14th and arrived in Portsmouth on 15th, where he learnt from Mr. Weaver, the Transport Commissioners' Agent, that the victualling ships for the Fleet had arrived at Spithead, as also the *John and Elizabeth*, but not the victuallers for the forces. Being asked by General Talmash what ships were available, went to the Victuallers' Agent, who told him of six victualling ships, partly, unladen, three of which agreed to come into the Transport Service. On 17th made preparations on board the *Prosperous* and *Hart*. On 18th tried to get the masters of some of the victualling ships to come into the Transport Service, but most refused, as they had not been paid the previous year, when hired for the Descent. The Major and another of Col. Wyn's officers complained that only bread and cheese and beer had been laid in for their men, better provision having been made for the foot on board the men of war; but on the General telling them they must acquiesce, they did so. Could not find out that any orders had been given for victualling the transport ships, and was bidden by the General to write to the Secretary of State about it. Mr. Steventon, Commissary of the Provisions on board the Fleet, had only directions to provision the men that went on board the men of war. On 19th shipped on board the *Friendship* the rest of the hay; but, the wind freshening, the forces were not shipped. Spoke with the other masters of the victualling ships with the same result as before. On 20th Steventon told him it was unlikely he would discharge any more of his ships yet awhile. Made another unsuccessful attempt to ship the horses, and was sent back to London by the General, as the men of war would receive the foot soldiers; and there being no ships available at Portsmouth, those necessary must be found in the Thames. Was thanked by the General. On 21st set out from Portsmouth, and, on passing by the Camp, heard that orders had been given to embark at 5 that morning, but had been recalled. On 22nd May arrived in London at 8 in the morning.

[*Numbered* 1]:

(*c*)[2]. 4 Feb.—Copies of Orders received by the Commissioners of Transportation, concerning the expedition in the Channel in the year 1694. *Signed* J. Trenchard, and *dated* from Whitehall.

(1) 14 April 1694, to provide transport for a Regiment of Horse (6 troops) from Portsmouth to Flanders. Memo. that this Order was found to be for 150 horse, for the expedition to Brest.

(2) 11 May 1694, for one of the Commissioners to go to Portsmouth to take up discharged victualling ships as transports for such of the land men as cannot be put on board the men of war.

(3) 13 May 1694, repeating preceding and directing the Commissioner to put himself under General Talmash's orders.

Certified as true Copies of all the Orders received on this subject, by Robt. Henley, John Ellis, John Nicholl and Saml. Atkinson, Transport Office, 2 Feb. Subjoined is a Memorandum that part of the Fleet returned from Brest to St. Helens, and, amongst the rest, the transport ships; and, the horse being unshipped two days after, Mr. Weaver received orders from E. Macclesfield to direct the transport ships to attend L. Berkeley at St. Helens, where they took in soldiers, and one of them, by L. Cutts' order, received 30 horses on board, with their

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provisions for 15 days, with which they attended L. Berkeley's Fleet, and returned again to St. Helens on 13 Sept. last.

[*Numbered* 2]:

(*d*) 7 Feb.—List of the Fleet that went to the Straits, and the time to which they were victualled, viz.:

With Admiral Russell, the same ships as those given in list (*b*)[8] above, with the substitution of the *Fly* for the *Spy* advice boat, and the *Crescent* for the *Firebrand* fireship, and the addition of the *Dispatch* brigantine. The *Lenox* and *Northumberland* are noted "come home." These ships were victualled at whole allowance to 20 Aug. 1694, and at short allowance to 15 Oct. following.

With Sir Francis Wheeler:

3. *Royal Oak.*
Warspite.
Boyne.
Norfolk.
Lost—*Cambridge.*
York.
Lost—*Sussex.*
Eagle.
Come home—4. *Winchester.*
Come home— *Rochester.*
Carlisle.
Falmouth.
Chatham.
Deptford.
Tiger Prize.
Princess Ann.

Lost—*Lumley Castle.*
Loyal Merchant.
Come home—5. *Smyrna Factor.*
Concord, Hospital ship.
6. *Saudadoes.*

Storeship:
5. *Muscovia Merchant.*

Fireships:
Vulcan.
Fortune.
St. Vincent.
Lightning.

Bomb Vessels:
Mortar.
Lost—*Serpent.*

The above-named ships were victualled at whole allowance to 18 June 1694, and at short allowance to 5 Sept. following.

Signed (by Order of the Commissioners) W. Bridgeman.

[Delivered this day by the Admiralty Commissioners, pursuant to Order of 4 Feb. (L. J. XV. 477, 482) and *numbered* 1.]

(*e*) 7 Feb. List of His Majesty's Royal Navy, with the hired ships now employed therein. It agrees with the list given in C. J., XI. 348—50, except that among the first rates the first *Royal Sovereign* is called the *Sovereign*, and the second the *Royal William*, and the following ships are omitted:—

3. *Chichester.*
Cambridge.
Cumberland.
Content Prize.
Newark.
Shrewsbury.
Yarmouth.
4. *Burlington.*
Coventry.
Gloucester.
Harwich.
Lincoln.
Litchfield.
Pendennis.
Severn.
Trident Prize.
Windsor.
5. *Arundel.*
Hastings.
Lime.
Milford.
Roebuck.
Ruby Prize.
Speedwell.
6. *Biddeford.*
Dunwich.

Express Advice Boat.
Intelligence Brigantine.
St. John Advice Boat.
Seaford.
Orford.
Penzance.
Post Boy Advice Boat.
Wren Pink.
All the Bomb Vessels.
Hired Ships.
5. *Unity.*
Tiger.

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While the following are added.

3. *Hope.*
4. *Dartmouth.*
5. *Nonsuch.*

Fireships.

Charles.
Roebuck.
Speedwell.
Terrible.

6. *Drake.*
Falcon.
Goodwin Prize.
St. Martin Prize.

Talbot Pink.

Crown Herring Machine Vessel.
Tow Engine Hulk.
Sheerness Smack.

Hired Ships.

4. *Berkeley Castle.*
5. *England* Frigate.
Loyalty.

Among the Storeships, the *Suffolk* Hoy-boat is the *Suffolk* hack-boat.

Then follows a list of new ships and vessels yet upon the stocks, but intended to be launched and made ready for the service of the next summer, in all 24. These are :—

Third Rates : *Cambridge, Chichester, Newark, Shrewsbury.*

Fourth Rates : *Gloucester, Lincoln, Litchfield, Coventry.*

Fifth Rates : *Milford, Hastings,* and one at Plymouth.

Sixth Rate : *Wren* Pink.

Bomb Vessels, Ten.

Advice Boats, Two.

An Abstract gives :

First Rates	7	
Second „	10	
Third „	43	
Fourth „	38	
Fifth „	22	
Fireships	25	
Sixth Rates	36	248
Ketches	7	
Yachts	16	
Machines	12	
Hulks	12	
Hoys	11	
Smacks	4	
Storeships	5	

Hired ships :

Fourth Rates	9	
Fifth „	8	23
Hospital ships	3	
Storeships	3	

New ships building :

Third Rates	4	
Fourth „	4	
Fifth „	3	24
Sixth „	1	
Bomb Vessels	10	
Advice boats	2	

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No. 886. *Signed* (by Order of the Commissioners) Wm. Bridgeman [Delivered this day by the Admiralty Commissioners, pursuant to Order of 4 Feb. (L. J., XV. 477, 482) and *numbered* 2. *See also* next paper.]

(*f*) 8 Feb. A list of the bomb vessels, omitted in the list of the Royal Navy given in yesterday (*e*). It agrees with the list in C. J., XI. 350, omitting the following :—

Basilisk	*Comet*	*Serpent.*
Blast	*Furnace*	*Thunder.*
Carcase	*Granada*	

Dated this day and *signed* as preceding [*Endorsed* as delivered this day by Mr. Bridgeman, and *numbered* 5].

(*g*) 9 Feb.—Answer of the Admiralty and Navy Commissioners, pursuant to the second Order made on 31 Jan., as to the sufficiency of the supplies ordered for the Mediterranean, Fleet, L. J. XV. 475, 485. *In extenso*. *Numbered* 3. Delivered and read this day. [On 31 Jan. the Admiralty are ordered to report whether they think we are in a condition, with the fleet we have here, to resist the enemy's fleet if they come forth; and whether, if there should be a battle in the Mediterranean there are stores there to refit the Fleet, and the Commissioners for Victualling ordered not to attend until further notice (MS. Min. 31 Jan. Compare L. J., XV. 475). On 9 Feb., after this paper had been read, it was proposed to ask the Admiralty, whether they do conceive the stores and provisions ordered and sent will serve the Fleet in case of an engagement, and the seas; and when the demands were made by Admiral Russell? The *Admiralty* were called in and asked what time Admiral Russell's demands were made? *Answer*, About the middle of October. *Question*, Whether [in] the stores sent and to be sent, you have had regard to an engagement and weather, above necessary accidents? *Answer*, The stores gone and to be gone exceed what was demanded. All the accidents that could happen was considered. *Asked* if they did not think of a battle? *Answer*, There is masts and yards over and above what were necessary; and we had rather they should bring back than want. (MS. Min. 9 Feb.) *See also* Paper (*i*) below.]

(*h*) 9 Feb. Answers of the Admiralty to the Questions asked on 7 Feb., as to Sir G. Rooke's and Mr. Russell's fleets. *L. J.*, XV. 482, 486, *in extenso*. *Numbered* 2. Delivered and read this day. *See also* MS. Min. 7 Feb.

(*i*) 13 Feb. Answer of the Admiralty and Navy Commissioners to the further Question asked on 9 Feb., as to the sufficiency of the supplies ordered for the Mediterranean fleet. L. J., XV. 485, 491, *in extenso*. Delivered and read this day. *See also* Note (*g*) above.

(*k*) 13 Feb. An Account of the number of cruisers employed the last year, and of their stations; and of the times appointed to them respectively to cruise in those stations; with the date of the Orders. It quotes the Orders given to 98 ships, arrauged alphabetically, viz., 19 Third, 25 Fourth, 28 Fifth, and 26 Sixth Rates, from time to time, and their stations from Nov. 1693 to Nov. 1694 inclusive. An analysis of this return gives the following result :—

CRUISERS.

Stations.	Rates.	Ships.	Date of Orders.	How long Ordered to Cruise.
Between Bridlington and Tynemouth Bar.	5	*Prudence* -	23 Feb. 1693	Till further Orders (May 26).
" "	6	*Mariana Prize* -	27 July 1694	- ditto - - (Sept. 29).

CRUISERS—*continued.*

Stations.	Rates.	Ships.	Date of Orders.	How long Ordered to Cruise.
Between Tynemouth Bar and Flambro' Head.	4	*Samuel and Henry*	1 June 1694	10 days.
Between Yarmouth and Tynemouth.	4	*Bonadventure*	10 May 1694	Till further Orders (May 23).
" "	4	*Woolwich*	23 May 1694	ditto (July 21)
Between Bridlington and Yarmouth.	5	*Garland*	17 May 1694	ditto (Sept. 6).
" "	6	*Rupert Prize*	ditto	ditto (July 30).
Between Bridlington and Harwich.	6	*Rupert Prize*	7 March 1694	ditto (May 17).
Between Yarmouth and Flambro' Head.	5	*Sheerness*	6 July 1694	ditto (Aug. 4).
Off Yarmouth to protect Mackrel Fishery.	5	*Sheerness*	16 May 1694	ditto (July 6).
" "	6	*Mariana Prize*	15 June 1694	ditto (June 29).
Off Yarmouth to protect Herring Fishery.	5	*Sheerness*	14 Sept. 1694	ditto (Nov. 5).
" "	5	*Smyrna Merchant*	17 Sept. "	ditto (Nov. 5).
Between Harwich and Yarmouth.	6	*Mariana Prize.*	5 March 1694	ditto (June 15)
" "	6	*Hind* Pink	26 " 1694	ditto (April 18).
" "	6	*Jersey*	6 July "	ditto.
" "	6	*Solebay*	24 Oct. "	ditto.
Between Harwich, Orfordness, and the Brill.	5	*Sheerness*	28 Aug. 1694	ditto (Sept. 14).
Between Harwich, Orfordness, and Maeze.	5	*James* Galley	9 June 1694	ditto.
Between Harwich and North Forland.	6	*Sally Rose*	3 March 1694	ditto (May 7).
Between the Nore, the Downs, and Spithead.	4	*Norwich*	7 Feb. 1694	ditto (Feb. 20).
Off North Foreland to protect Herring Fishery.	6	*Rupert Prize*	5 Oct. 1694	ditto (Nov. 10).
Off North Foreland to protect Mackrel Fishery.	5	*Smyrna Merchant*	8 May 1694	ditto (June 27).
Coast of Zeeland	5	*Smyrna Merchant*	11 Dec. 1693	Till he meets corn ships going to France, or further Orders (March 11th, 1694).
Broad fourteens	4	*Oxford*	20 April 1694	Till further orders.
" "	6	*Henry Prize*	13 May "	20 days.
" "	4	*Dover*	29 May "	Till he meets corn ships going to France, or till further orders.

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CRUISERS—*continued.*

Stations.	Rates.	Ships.	Date of Orders.	How long Ordered to Cruise.
Broad fourteens - - -	5	*Prince George* -	30 May 1694	Till he meets corn ships going to France, or till further orders.
„ „ - -	6	*Albrô* Ketch - -	14 June „	To intercept French corn ships, or till further orders.
„ „ - -	4	*Greenwich* - -	17 June „	- ditto.
„ „ - -	3	*Hope* - - -	20 June „	- ditto.
„ „ - -	4	*Portland* - -	20 June „	Till further orders.
„ „ - -	3	*Dreadnought* -	22 June „	Till he meets corn ships for France.
„ „ - -	3	*Lion* - - -	22 June „	- ditto.
„ „ - -	4	*Norwich* - -	27 June „	Till further orders.
„ „ - -	5	*Smyrna Merchant* -	27 June „	- ditto.
„ „ - -	3	*Essex* - - -	9 Mar. 1693–4	Till he meets corn ships for France.
Between Zeeland and Calais.	5	*Saudadoes Prize* -	20 Feb. 1694	Till he meets corn ships bound to France.
Between Zeeland and Calais and Dover.	4	*Woolwich* - -	1 Dec. 1693	Till further Orders (May 23).
„ „	5	*Garland* - -	22 Dec. „	- ditto - - (March 16).
„ „	3	*Cornwall* - -	31 Dec. „	To intercept French Store-ships, or till further Orders.
„ „	5	*Portsmouth* - -	9 Jan. 1694	Till further Orders (Mar. 20).
„ „	4	*Dartmouth* - -	11 Jan. „	- ditto - - (March 1[illegible].
„ „	4	*Coronation* - -	19 Jan. „	To intercept French Store-ships, or till further Orders.
„ „	5	*England* Frigate -	20 Feb. 1694	To intercept French corn-ships (Mar. 5).
„ „	4	*Norwich* - -	„ „	Till further Orders (June 27).
„ „	5	*Pearl* - - -	„ „	- ditto - - or performs service (March 6).
„ „	5	*Play* Prize - -	„ „	To intercept French corn-ships (March 10).
Off Dunkirk - - -	6	*Henry Prize* - -	12 June 1694	Till further Orders.
„ - - -	5	*Smyrna Factor* -	31 Aug. „	- ditto.
„ - - -	3	*Kent* - - -	2 Sept. „	- ditto.
„ - - -	3	*Hope* - - -	4 Sept. „	- ditto.
„ - - -	5	*Garland* - -	6 Sept. „	- ditto - - (Sept. 29).
„ - - -	-	*Greenwich* - -	19 Sept. „	- ditto.
Between Dover and Calais.	4	*Weymouth* - -	22 Nov. 1693	- ditto - - (March [illegible].
„ „	5	*James* Galley -	1 Dec. „	Whilst provisions last (June 9).
„ „	4	*Hampshire* - -	20 Feb. 1694	To intercept French corn ships, or till further Orders.
Off Calais - - -	5	*Smyrna Merchant* -	7 Sept. 1694	Till further Orders (Sept. 17).
Between Beechey Head and the South Foreland.	5	*Shoreham* - -	4 Aug. 1694	- ditto - - (Aug. 8).

CRUISERS—*continued.*

Stations.	Rates.	Ships.	Date of Orders.	How long Ordered to Cruise.
Between South Foreland and Dungeness.	6	*Sally Rose*	23 May 1694	Till further Orders (Sept. 29)
" "	5	*Unity*	ditto	ditto.
Between Dover, Dungeness and Beechey Head.	6	*Rupert Prize*	9 Nov. 1693	ditto (March 7).
Off Folkestone, Hastings, and Dover to protect the Mackrel Fishery.	6	*Sally Rose*	7 May 1694	ditto (May 23).
South Foreland and Beechey Head.	5	*Charles* Galley	26 July "	ditto (Oct. 6).
Between Dungeness and Beechey Head.	6	*Maidstone*	24 Jan. 1693-4	ditto (April 18).
" "	5	*Charles* Galley	7 July 1694	ditto (July 26).
Between North Foreland and the Ness.	6	*Basing* Galley	17 May "	ditto (May 22).
" "	5	*Unity*	ditto	ditto (May 23).
Off Folkestone, Rye, and Hastings, to protect Herring Fishery.	6	*Mariana Prize*	15 Nov. 1693	ditto (March 5).
" "	6	*Greyhound*	12 Dec. "	ditto (March 20).
" "	6	*Albro Ketch*	30 Jan. 1693-4	ditto (April 20).
" "	6	*Basing* Galley	22 May 1694	ditto.
" "	6	*Maidstone*	— "	ditto.
Off Dover and Dungeness to protect Mackrel Fishery.	5	*New Africa*	13 May 1694	Till further orders. (May 17).
" "	6	*Jersey*	16 May "	ditto (July 6).
Off Coast of Sussex	5	*Loyalty*	2 Aug. "	ditto (Oct. 25)
Between Isle of Wight and Beechey Head.	5	*New Africa*	17 May "	ditto.
" "	6	*Rupert Prize*	30 July "	ditto (Oct. 5).
" "	6	*Swan*	24 Oct. "	ditto.
Off the Isle of Wight	4	*Foresight*	10 April "	By order of Council of War at Spithead (May 25).
" "	5	*Experiment*	ditto	ditto.
Between Isle of Wight and Purbeck.	6	*Maidstone*	2 Sept. 1694	Till further orders.
Between Isle of Wight and Portland.	6	*Maidstone*	11 June "	Till further orders. (Sept 2.)
Coast of France and Flanders.	3	*Elizabeth*	2 Sept. "	ditto.
Coast of France to gain intelligence.	6	*Germoon Prize*	6 Oct. 1693	As long as required for this service.
" "	6	*Goodwin Prize*	8 Feb. 1693-4	ditto (Feb. 28).
" "	6	*ditto*	20 March "	ditto.

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CRUISERS—*continued.*

Stations.	Rates.	Ships.	Date of Orders.	How long Ordered to Cruise.
Coast of France to gain intelligence.	3	*Monk*	31 Aug. 1694	Till further order (Oct. 11).
Boulogne and Cape la Hogue.	3	*Boyne*	31 Dec. 1693	To intercept French store ships or *till further* orders.
" "	3	*Devonshire*	- ditto -	Till further orders.
" "	3	*Humber*	4 Jan. 1693-4	Same as the "Boyne."
Off St. Malo	5	*Saudadoes Prize*	29 Aug. 1694	Till further order (Nov. 13).
"	5	- *ditto*	12 Nov. "	- ditto.
Off St. Malo, Cape la Hogue, Jersey and Guernsey.	5	- *ditto*	20 June "	30 days.
Between Jersey and Guernsey.	6	*Swallow Prize*	7 Feb. 1693-4	Till further orders.
" "	6	*Goodwin Prize*	28 Feb. "	40 days.
" "	5	*England* Frigate	8 March "	Till further orders (May 21).
" "	5	*Hind* Pink	20 June 1694	- ditto.
" to gain intelligence.	5	*Portsmouth*	20 March "	As long as needful for this service.
" "	6	*Greyhound*	- ditto -	Till further orders.
Between Lizard and Scilly.	4	*Dartmouth*	12 June 1694	- ditto.
" "	5	*Anglesea*	16 July "	40 days.
" "	5	- *ditto*	10 Sept. "	- ditto.
Off Scilly	4	*Greenwich*	3 Nov. 1693	20 days.
"	4	- *ditto*	29 Nov. "	As long as provisions last.
"	4	*Dartmouth*	4 Sept. 1694	- ditto.
"	4	*Assistance*	4 Oct. "	Till he meets with East India ships coming from abroad, or as long as provisions last.
"	4	*Dover*	27 Nov. "	As long as provisions last.
30 leagues W.S.W. from Scilly.	4	*Foresight*	17 July "	40 days.
20 leagues W. of Scilly	4	*Newcastle*	23 Dec. 1693	Till he meets with East India ships.
40 leagues W. of the Lizard.	5	*Adventure*	3 Nov. "	20 days.
" "	5	- *ditto*	28 Nov. "	As long as provisions last.
" "	3	*Monk*	4 Dec. "	Till he meets with West Indies Fleet.
" "	5	*Adventure*	8 Dec. "	5 weeks.
" "	3	*Berwick*	14 Dec. "	30 days.
Soundings	3	*Cornwall*	16 Jan. 1693-4	As long as provisions last.
"	3	*Mary*	- ditto -	Till he meets Virginia Fleet.
"	4	*Bonadventure* Hired	- ditto -	Till further orders.
"	4	*Dragon*	31 Jan. 1693-4	3 weeks.

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No. 886.

CRUISERS—*continued.*

Stations.	Rates.	Ships.	Date of Orders.	How long Ordered to Cruise.
Soundings - - -	4	*Ruby* - - -	12 Feb. 1693-4	Till he meets Virginia Fleet.
„ - - -	4	*Newcastle* - -	20 Feb. „	Till he meets West Indies Fleet.
„ - - -	3	*Monmouth* - -	30 March 1694	Till he meets the Cadiz, East or West India ships.
„ - - -	4	*Dartmouth* - -	16 July „	40 days.
„ - - -	4	*Reserve* - - -	17 July „	- ditto.
„ - - -	4	*Ruby* - - -	18 July „	- ditto.
„ - - -	4	*Foresight* - -	10 Sept. „	Till he meets Straits Fleet, or till further orders.
„ - - -	4	*Assistance* - -	18 Sept. „	As long as provisions last, or till he meets Admiral Russell.
Between Cape Cornwall and Lundy Island.	6	*Jolly Prize* - -	8 May 1694	Till further orders.
Between Bideford and Milford.	6	*Lizard* - -	22 May „	- ditto.
Off Cape Clear - -	4	*Bonadventure* -	9 Jan. 1693-4	Till 2 months' provisions expended.
„ „ - -	3	*Mary* - - - -	7 Mar. „	Till he meets with Virginia Fleet.
„ „ - -	5	*Play Prize* - -	10 Mar. „	- ditto.
„ „ - -	4	*Ruby* - - -	- ditto - -	- ditto.
„ „ - -	4	*Weymouth* - -	- ditto - -	- ditto.
„ „ - -	5	*Adventure* - -	9 Mar. 1693-4	- ditto.
„ „ - -	3	*Dunkirk* - -	10 March „	- ditto.
„ „ - -	4	*Dragon* - -	- ditto - -	- ditto.
„ „ - -	3	*Monk* - - -	4 April 1694	Till he meets West India Fleet.
Off Cape Clear - -	6	*Lark* - - -	11 April 1694	Till further Orders.
	5	*Sheerness* - -	— 1693	To follow Captain Gillam's Orders.
	5	*Anglesea* - -	9 June 1694	As long as provisions last.
	3	*Rupert* - - -	13 June „	- ditto.
	4	*Assistance* - -	22 June „	- ditto.
	3	*Dunkirk* - -	10 Aug. „	Till further Orders.
	3	*Rupert* - - -	18 Oct. „	Till he meets E. India ships.
Between Waterford, Belfast and Dublin.	5	*Pearl* - - -	6 Mar. 169$\frac{3}{4}$	10 days.
Between Kildare Islands and Orkney.	4	*Bonadventure* -	23 May 1694	6 weeks, or till he meets W. Indies Fleet.
	4	*Woolwich* - -	21 July „	30 days.
	4	*Bonadventure* -	24 July „	- ditto.

CONVOYS.

Station.	Rate.	Ship.	Date of Orders.	How long Ordered to Serve.
Between Nore, Newcastle, Leith and Holland.	5	*Smyrna Merchant* -	11 Mar. 1693-4	Till further Orders (8 May).

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CONVOYS—*continued.*

Station.	Rate.	Ship.	Date of Orders.	How long Ordered to Serve.
Between Ostend and Leith.	5	*Charles* Galley -	5 Nov. 1693	Till further Orders (8 March).
Between Leith and Holland.	4	*Greenwich* - -	11 Mar. 1693-4	- ditto - - (17 June).
Between Yarmouth, Tynemouth Bar and Scotland.	5	*Sheerness* - -	5 Nov. 1694	- ditto.
Between Nore, Newcastle and Leith.	5	*Sweepstakes* - -	4 Nov. 1693	- ditto - (7 Sept. 1694.
Between Nore, Humber and Leith.	5	*New Africa* - -	20 Mar. 1693-4	- ditto - - - (13 May).
Between Nore, Tynemouth and Holland.	4	*Samuel and Henry*	3 Aug. 1694	- ditto.
Between Tynemouth Bar and Flamborough Head.	4	*Samuel and Henry*	3 April 1694	- ditto - - (1 June).
Between Nore and Newcastle.	5	*Unity* - - -	1 Dec. 1693	- ditto - (17 May 1694.
Between Nore and Tynemouth Bar.	5	*Smyrna Merchant* -	5 Nov. 1694	- ditto - (17 May 1694.
Between Bridlington, Yarmouth and the Maas.	5	*Loyalty* - - -	29 June 1694	- ditto - - (26 July).
Between Yarmouth, Humber and the Maas.	5	*Sheerness* - -	4 Aug. 1694	- ditto - - (26 Aug.).
Between Yarmouth and the Humber.	5	*Friendly Society* -	16 June 1694	- ditto - - - (13 July).
Between Humber, Yarmouth and Nore.	6	*Rupert Prize* -	10 Nov. 1694	- ditto.
Between Humber and Nore.	5	*Prudence* - -	6 Nov. 1693	- ditto - (22 Feb. 1693-4.
Between Downs and Yarmouth.	5	*Friendly Society* -	18 July 1694	- ditto - - (17 Aug.).
Between Pevensey, Rye, Yarmouth Roads, and the Maas.	5	*Charles* Galley -	29 Oct. 1694	- ditto.
Between Lynn and the Nore.	6	*Roe Ketch* - -	26 Jan. 1693-4	- ditto.
Between Nore and Holland.	4	*Centurion* - -	25 Nov. 1693	- ditto.
Between Nore and Ostend.	4	*Newcastle* - -	3 April 1694	- ditto.

CONVOYS—*continued.*

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No. 886.

Station.	Rate.	Ship.	Date of Orders.	How long Ordered to Serve.
Between Nore, Downs and Spithead.	5	*Sheerness* - -	6 April 1694	Till further Orders (10 April).
Between Nore and Plymouth.	4	*Bristol* - - -	9 Nov. 1693	- ditto.
Between Shoreham and Downs.	5	*Shoreham* - -	21 Feb. 1693-4	- ditto - - (26 March).
Between Downs, Newhaven, Rye and Pevensey.	5	*Loyalty* - - -	24 July 1694	- ditto - - - (2 Aug.).
Between Downs and Spithead.	5	*Play Prize* - -	10 Nov. 1693	- ditto - - (20 Feb.).
	5	*England* Frigate -	12 Jan. 1693-4	- ditto - - (20 Feb.).
	4	*Kingfisher* - - -	23 Jan. „	- ditto.
	5	*Garland* - -	2 May 1694	- ditto - - (17 May).
	4	*Reserve* - - -	22 Oct. „	- ditto.
Between Portsmouth and Downs.	4	*Bonadventure* Hired	21 Dec. 1693	- ditto - - (16 Jan.).
Between Downs and Plymouth.	3	*Hampton Court* -	16 Aug. 1694	- ditto.
Between Downs and Falmouth.	5	*Friendly Society* -	17 Aug. „	- ditto.
	5	*Loyalty* - - -	25 Oct. „	- ditto.
Between Portsmouth and Plymouth.	5	*Smyrna Factor* -	1 Oct. „	Ordered by Capt. Warren of the *Monck*.
Between Plymouth and Spithead.	5	*Prince of Orange* -	20 Oct. „	Till further Orders.
Between Portland and Portsmouth.	6	*Hind* Pink - -	29 May „	- ditto - - (20 June).
Between Downs, Portsmouth, Falmouth and Kingroad.	5	*England* Frigate -	21 May „	- ditto - - (21 June).
Between Kingroad and Plymouth.	5	- *ditto* - - -	21 June „	- ditto.
Between Bristol, Milford and Plymouth.	5	*Prince of Orange* -	18 Nov. 1693	- ditto - (20 Oct. 1694).
	6	*Quaker* Ketch -	28 Feb. 1693-4	- ditto.
Between Ireland and Plymouth.	4	*Southampton* - -	18 Dec. 1693	- ditto.
With Transport ships to Holland.	5	*New Africa* - -	20 Mar. 1693-4	- ditto.
	5	*Sheerness* - -	10 April 1694	- ditto.

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provisions for 15 days, with which they attended L. Berkeley's Fleet, and returned again to St. Helens on 13 Sept. last.

[*Numbered* 2] :

(*d*) 7 Feb.—List of the Fleet that went to the Straits, and the time to which they were victualled, viz. :

With Admiral Russell, the same ships as those given in list (*b*)[8] (8) above, with the substitution of the *Fly* for the *Spy* advice boat, and the *Crescent* for the *Firebrand* fireship, and the addition of the *Dispatch* brigantine. The *Lenox* and *Northumberland* are noted "come home." These ships were victualled at whole allowance to 20 Aug. 1694, and at short allowance to 15 Oct. following.

With Sir Francis Wheeler :

3. *Royal Oak.*
Warspite.
Boyne.
Norfolk.
Lost—*Cambridge.*
York.
Lost—*Sussex.*
Eagle.
Come home—4. *Winchester.*
Come home— *Rochester.*
Carlisle.
Falmouth.
Chatham.
Deptford.
Tiger Prize.
Princess Ann.

Lost—*Lumley Castle.*
Loyal Merchant.
Come home—5. *Smyrna Factor.*
Concord, Hospital ship.
6. *Saudadoes.*

Storeship :
5. *Muscovia Merchant.*

Fireships :
Vulcan.
Fortune.
St. Vincent.
Lightning.

Bomb Vessels :
Mortar.
Lost—*Serpent.*

The above-named ships were victualled at whole allowance to 13 June 1694, and at short allowance to 5 Sept. following.

Signed (by Order of the Commissioners) W. Bridgeman.

[Delivered this day by the Admiralty Commissioners, pursuant to Order of 4 Feb. (L. J. XV. 477, 482) and *numbered* 1.]

(*e*) 7 Feb. List of His Majesty's Royal Navy, with the hired ships now employed therein. It agrees with the list given in C. J., XI. 348—50, except that among the first rates the first *Royal Sovereign* is called the *Sovereign*, and the second the *Royal William*, and the following ships are omitted :—

3. *Chichester.*
Cambridge.
Cumberland.
Content Prize.
Newark.
Shrewsbury.
Yarmouth.
4. *Burlington.*
Coventry.
Gloucester.
Harwich.
Lincoln.
Litchfield.
Pendennis.
Severn.
Trident Prize.
Windsor.
5. *Arundel.*
Hastings.
Lime.
Milford.
Roebuck.
Ruby Prize.
Speedwell.
6. *Biddeford.*
Dunwich.
Express Advice Boat.
Intelligence Brigantine.
St. John Advice Boat.
Seaford.
Orford.
Penzance.
Post Boy Advice Boat.
Wren Pink.
All the Bomb Vessels.
Hired Ships.
5. *Unity.*
Tiger.

While the following are added.

3. *Hope.*
4. *Dartmouth.*
5. *Nonsuch.*

Fireships.

Charles.
Roebuck.
Speedwell.
Terrible.
6. *Drake.*
Falcon.
Goodwin Prize.
St. Martin Prize.
Talbot Pink.

Crown Herring Machine Vessel.
Tow Engine Hulk.
Sheerness Smack.

Hired Ships.

4. *Berkeley Castle.*
5. *England* Frigate.
Loyalty.

Among the Storeships, the *Suffolk* Hoy-boat is the *Suffolk* hack-boat.

Then follows a list of new ships and vessels yet upon the stocks, but intended to be launched and made ready for the service of the next summer, in all 24. These are :—

Third Rates : *Cambridge, Chichester, Newark, Shrewsbury.*

Fourth Rates : *Gloucester, Lincoln, Litchfield, Coventry.*

Fifth Rates : *Milford, Hastings,* and one at Plymouth.

Sixth Rate : *Wren* Pink.

Bomb Vessels, Ten.

Advice Boats, Two.

An Abstract gives :

First Rates	7	
Second „	10	
Third „	43	
Fourth „	38	
Fifth „	22	
Fireships	25	
Sixth Rates	36	248
Ketches	7	
Yachts	16	
Machines	12	
Hulks	12	
Hoys	11	
Smacks	4	
Storeships	5	

Hired ships :

Fourth Rates	9	
Fifth „	8	23
Hospital ships	3	
Storeships	3	

New ships building :

Third Rates	4	
Fourth „	4	
Fifth „	3	24
Sixth „	1	
Bomb Vessels	10	
Advice boats	2	

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1694-5. Appended is a Monthly Abstract, as follows :—

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Months.		Rates.				Total.
		3d.	4th.	5th.	6th.	
1693	Nov. - -	3	16	18	14	51
	Dec. - -	5	13	20	12	50
1693–4	Jan. - -	6	20	17	13	56
	Feb. - -	4	18	23	17	62
	March -	6	17	20	17	60
1694	April - -	5	17	21	17	60
	May - -	4	16	18	17	55
	June - -	3	16	17	16	52
	July - -	4	17	17	13	51
	August -	5	15	16	13	49
	Sept. - -	4	12	21	14	51
	Oct. - -	8	14	21	14	57
	Nov. - -	3	19	19	15	56

Signed, by Command of the Commissioners, W. Bridgeman [Delivered this day (MS. Min. 13 Feb.), pursuant to Order of 31 Jan. (L. J., XV. 475). This Return had been previously delivered without dates, and, being begun to be read on 11 Feb., was returned for the addition of the dates (*ib.* 488).]

(*l*) 13 Feb. Copy of Order to L. Berkeley from Admiral Russell for his proceeding to Camarett Bay, as follows :—By the Rt. Hon. Edward Russell, Admiral of their Majesties' Fleet, &c. You are hereby required and directed, with the ships of their Majesties and those of the States General mentioned in the margin *(see below)*, or such of them as are now here, the remainder whereof shall have orders to join you, to proceed to Brest, transporting thither the land soldiers which are embarked upon them, under the command of the Rt. Hon. Lieut. General Talmash ; and at your arrival there you are to land the Officers and Soldiers in such manner and at such place or places as shall be agreed on by a Council of War of the General Officers, both of land and sea, by which Council it is to be considered of before you come near Brest, if it be possible, how the forces may be best assisted from the ships, either in their landing or otherwise, as also the time when it will be proper for the men of war to go into Brest water, to render them the most serviceable on the intended design against that place, and the enemy's ships there ; and accordingly you are to act with your utmost care and diligence. When the land forces and the men of war have performed what service they can against Brest, it is to be considered by a Council of War of the General Officers before mentioned whether any service may be done against any other ports or places belonging to the enemy, and in what manner the same may be most effectually performed, and, if it shall be thought advisable by the Council of War, you are accordingly to proceed with the ships under your command ; and in regard there may many things happen during your being employed on this service, which cannot be now foreseen or enumerated, you are to govern yourself therein according as a Council of War shall think most for their Majesties' Service. When a Council

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of War shall judge that there can be no farther service performed against the enemy either by sea or land, and that they shall advise the embarking of the forces, you are then to receive them on board, and make the best of your way either to Torbay or Spithead, as shall be thought most proper by the said Council of War, giving an account of your arrival to their Majesties' Principal Secretaries of State and the Lords Commissioners of the Admiralty, and remain there till you shall receive further orders from Her Majesty or the aforesaid Commissioners; and during your being on this service you are to give as frequent accounts of your proceedings as conveniently you can to their Majesties' Principal Secretaries of State before mentioned. You are at all times when the forces shall go on shore or come on board again to use your utmost endeavour to protect them with the ships under your command. In case it shall at any time be thought necessary by the General Officers that part of the seamen belonging to the ships under your command should be put on shore to strengthen the land forces, and it shall be judged that the ships may spare them without being exposed thereby to hazard, you are to detach such a number of the said seamen as the aforesaid General Officers shall advise. Dated on board the *Britannia* at St. Helens this 29° Maii 1694. *Signed* E. Russell. *Addressed* To the Rt. Hon. John Lord Berkeley, Admiral of the Blue Squadron of their Majesties' Fleet. *Signed* (by command of the Admiral) J. Burchett. Vera Copia, William Hibberd. The ships named in the margin, as placed under L. Berkeley's command, are the following:—

English Ships.

Rate.	Name.	Name.
1	*London.* *Royal William.* *Queen.*	Fireships: *Joseph.* *Roebuck.* *Speedwell.* *Owner's Love.* *Machine.* *Charles.* *Hawk.* *St. Paul.* *Blaze.* *Crescent.*
2	*Vanguard.* *Neptune.* *Katherine.* *Duchess.*	
3	*Lion.* *Captain.* *Defiance.* *Swiftsure.* *Edgar.* *Hope.* *Suffolk.* *Dreadnought.* *Stirling Castle.* *Monck.* *Lancaster.* *Elizabeth.*	Hospitals: *Bristol.* *London Merchant.* *Siam.*
		Brigantines: *Despatch.* *Shark.* *Discovery.*
4	*Greenwich.*	Bomb vessels: *Mercury*, Advice Boat. *Peter*, Watership.
5	*Shoreham.* *Charles* Galley.	

1694-5. Dutch Ships.*

No. 886.

Unie.	*'t Stotmuyden.*	
Koning William.	*Maagd van Dort.*	**Fireships:**
Princes.	*Banier.*	
Captain General.	*Wassenaar.*	*Strombolo.*
de Beschermer.	*Zierick Zee.*	*De Wynbergh.*
Ceurvurstin v. Brandebr.	*Damiaten.*	*Etna.*
Eerste Edlen.	*Drakenstein.*	*De Harder.*
Reygersbergh.	*De Wolff.*	
Gelderlandt.	*Wesep.*	
Munikendam.		

[Delivered by L. Berkeley, and read this day (MS. Min.; no entry in L. J.), pursuant to Order of 11 Feb. (L. J., XV. 488).]

(*m*) 14 Feb. Answers of the Admiralty to the questions put to them on 13 Feb. as to the force at the Downs, the Nore, and Spithead, in April 1693 (L. J., XV. 491, 493, *in extenso*). The names of some of the Dutch ships are incorrectly printed, viz., The *Oosterstellingwharf, Damianten, Muÿderbergh, d'Veliuwe, Cheurvorst* or [*? van*] *Brand., Zirkzee.* Some of the names are given differently in preceding paper. [Delivered this day by Mr. Bridgeman, and read. *Numbered 1.*]

(*n*) 14 Feb. Copies of two Orders from the Admiralty to Capt. Gourney, Commander of the *Bristol*, dated 19 April 1694 (1) to receive on board Col. Russell, Governor of Barbadoes, his lady, her daughter, Mrs. Moore the lady's woman, four maidservants and four manservants, and transport them to Barbadoes; and (2) to receive on board Mr. Onely with his two servants and transport them thither.

Signed as a true copy, by Wm. Bridgeman. [Delivered by Mr. Bridgeman this day and read (MS. Min.). *Numbered* 2. On 11 Feb. the Admiralty were ordered to lay before the House any Orders in relation to the squadron that took Mr. Russell to the Barbadoes precedent to those already delivered (L. J., XV. 488); and on 13 Feb. they stated to the House that there were none such (MS. Min. 13 Feb.).]

(*o*) 15 Feb. An Account of what English and Dutch ships were in the Downs with Sir Geo: Rooke the 11th April last, delivered *this day* by Sir Geo: Rooke, pursuant to Order of 14 Feb., L. J., XV. 494, 495 *in extenso.*

(*p*) 19 Feb. Answer of the Admiralty to the question When they had any directions for preparing ships to sail to the West Indies with Col. Russell or any others, and how those directions were executed?, which was asked them on 14 Feb. (L. J., XV. 494). Orders were given to fit the following ships for a voyage to the West Indies,—on 6 Dec. 1693, the *Bristol*, on 8 Dec. 1693 the *Bonadventure* hired ship, on 13 Dec. 1693 the *Coronation* instead of preceding, and on 1st Feb. 1693-4 the *Experiment.* On 23 Feb. 1693-4 orders were given to hire ships to convey Col. Russell's goods to Barbadoes. On 8 March 1693-4 the Admiralty were directed by Order in Council to send one fourth, one fifth and one sixth rate to Jamaica to guard it, the 4th rate being in the room of the *Mordant* lately lost; on 15 April to order the Jamaica Convoy to accompany the Barbadoes Convoy on 20th; on 19th April to stop the Convoys; and on May 7th to permit them to proceed. *Signed* (By command of the Commissioners) Wm. Bridgeman. [Delivered this day by Mr. Bridgeman (L. J., XV. 499) and read on 21 Feb. (MS. Min.).]

(*q*) 19 Feb. Copies of Orders from the Admiralty to Capt. Simmons, Commander of the *Hampshire*, at the Downs, *signed* by various Com-

* Compare with List in L. J., XV. 493, where several misprints occur.

missioners and by J. Sotherne (by their command) and *certified* by W. Bridgeman. They are as follows :— 1694-5. No. 886.

(1) 8 March 1693–4, to receive on board Mr. Cranfield, Revenue Commissioner at Barbadoes, and three servants, and give them passage thither.

(2) 12 March 1693–4, to sail at once for Jamaica with any merchant ships bound thither, and place himself under the orders of the Lieut. Governor there.

(3) 12 March 1693–4, not to imprest seamen from Jamaica without the Governor's leave.

(4) 18 March 1693–4, to remain at the Downs till further order.

[Delivered this day by Mr. Bridgeman, pursuant to Order of 14 Feb. (L. J., XV. 499) and read on 21 Feb. (MS. Min.).]

(*r*) 23 Feb.—Answers of the Admiralty to the Questions put to them on 21 Feb. (L. J., XV. 502, *in extenso*), as follows :—

(1) *Question.* Why the squadron appointed to cruise in the Soundings when the Barbadoes Fleet was expected in September 1693 was recalled before that Fleet came home?

Answer. In pursuance of the Queen's pleasure signified to us by letter from Mr. Secretary Trenchard, dated the 13th of September 1693, for making up a squadron of 25 sail at Spithead to be employed on a particular service.

(2) *Question.* What care they have taken in the years 1693 and 1694 to prevent corn ships and naval stores from going for France?

Answer. Several squadrons and cruising ships were appointed both to the northward and westward (according to advices received) for intercepting ships laden with corn and naval stores going for France, which accordingly brought into several ports great numbers of ships so laden.

(3) *Question.* What care they have taken in the said years to interrupt the French coasting trade?

Answer. All care has been taken to interrupt the French coasting trade as would consist with the security of our own, and as the number of ships we have will allow of.

(4) *Question.* Why they appointed single cruisers from time to time in the said years, and not squadrons in proper stations?

Answer. When the enemy had squadrons, we appointed squadrons, and single cruisers were likewise ordered as the more effectual way to rid the sea of privateers.

(5) *Question.* Why they committed the care of the stores and provisions sent to the Fleet in the Mediterranean, and the stores coming from the Baltic and New England, to so slender convoys?

Answer. We did think, with submission, that two or three third rates for the whole voyage, accompanied with some cruisers the better part of the way, was a sufficient convoy for the stores and provisions sent to the Fleet in the Mediterranean at such times, when, by all the accounts we received, and the season of the year, the enemy had no strength at sea to intercept them. As to the stores from the Baltic, there came home with them a convoy of six men of war and two fireships, of which three of them were third rates. And the ships from New England were ordered to be convoyed home by two men of war, of 40 and 32 guns, which was as many as the other services would admit, or has been usual for that trade. But the lesser ship proving not to be in a condition to come home was the cause of that convoy's being no stronger.

(6) *Question.* What cruisers and convoys there have been for a year and half last past upon the Northern Coast, and what are now there?

Answer. The annexed list gives an account thereof.

1694-5. — No. 886.

Signed (by command of the Commissioners) **Wm. Bridgeman.**

Annexed is a List, referred to in Answer to (6), as follows :—

Cruisers and Convoys on the Northern Coast before the list of Cruisers already given in.

—	Ships' Names.	Stations.	Date of Orders.	How long ordered to cruise.
4	*Kingfisher* -	Near the Islands of St. Kilda in the North of Ireland, and between those Islands and the Orkneys.	14 July 1693 -	Till 20 Aug. 1693, if the Barbadoes ships do not arrive before.
	Centurion - -			
5	*Play* Prize -			
4	*Southampton* -	In the Narrow between Ireland and Scotland, but most commonly in the passage between the Islands upon the North of Ireland and the main of that Kingdom.	19 „ „	For a month's time after their arrival there.
5	*Dolphin* - -			
	Virgin Prize -			
5	*Saudadoes Prize.*	Between Yarmouth Roads and Tynemouth Bar.	25 „ „	Till further Orders.
4	*Bristol* - - -		14 Sept. „	- ditto.
6	*Pearl Prize* -	Convoy to the Herring Fishery off Yarmouth.	5 „ „	During the Herring Season.

Cruisers and Convoys on the Northern Coast since the list of Cruisers already given in :—

—	Ships' Names.	Stations.	Date of Orders.	How long ordered to cruise.
5	*Virgin Prize* -	Newcastle Convoy - -		
6	*Rupert Prize* -	Lynn Convoy - - -		
	Solebay - - -	Between Yarmouth, Harwich, and the Brill.		
	Mariana Prize			
5	*Prince George* -	Gone to Scotland to transport officers from thence.		

Besides which the ships following have been on the Northern Coast, whose Stations and Orders are specified in the list of Cruisers already given in :—

Hind Ketch.
Portsmouth Sloop.
Sweepstakes.
Prudence.
Unity.
Roe Ketch.
Garland.
Mariana Prize.
New Africa.
Dartmouth.
Smyrna Merchant.
Rupert Prize.
Bonadventure.
Woolwich.
Sheerness.
Jersey.
Samuel and Henry.
Solebay.
Mariana Prize.

And there are likewise fitting in the River, as fast as possible, the ships following :—

Samuel and Henry.
Sweepstakes.
Garland.
Henry Prize.
Mermaid.
Roe Ketch.

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which are and were designed for the northward, and had been there long ago, had they not been delayed by the frost. *Signed* as above. [Delivered this day by the Commissioners of the Admiralty (L. J., XV. 505). On 21 Feb. the House went into consideration of the State of the Fleet, and the papers from the Commissioners of the Admiralty sent in the 19th Inst. were read. The House went into debate of this matter. The Barbadoes Fleet miscarried by calling home our cruisers. If the arm[ie]s be supplied by a coasting trade, I fear we have not taken care to prevent it by convoys. Then the Admiralty were ordered to answer the above questions. On 23 Feb. their Answers, as above, were read. The first Question and Answer were read. The Admiralty were asked concerning their reference to Mr. Secretary's letter, whether that letter was to call home the squadron out of the Soundings, or to make up a squadron. They answer that it was. *Moved* to ask when the French ships have been intercepted. *Moved* for a fuller answer to the 3rd Question sent to them. Then the Questions and Answers and several Additional Questions (see L. J., XV. 505) were read to the Admiralty, and they answered to the first and second, That squadron was confined to rates. I believe there were ships to relieve them. I believe our opinion was given. Then they were ordered to answer the Additional Questions. (MS. Min. Feb. 21, 23).]

(*s*) 23 Feb. Copy of a letter from Mr. Secretary Trenchard to the Admiralty, referred to in Answer (1) of preceding paper. It is as follows :—My Lords, The list of the 25 ships which you judge most proper to be employed on a particular service, in pursuance of the Queen's commands signified to you the 9th Instant, having been laid before Her Majesty, She directs me to signify her pleasure to you that you give order that the said 25 ships come as soon as may be to Spithead, being the rendez-vous appointed for them, and that victuals and stores for four months be put on board them with all possible expedition. Her Majesty would also have you give order that 6 fireships, the storeships, and stores that returned with Sir Geo: Rooke, one hospital ship, two 6th rates and two tenders be added to the said squadron. And Her Majesty's further pleasure is that you give order that all the ships which are to be refitted in the River be brought about forthwith, and that the rest of the Main Fleet go from St. Helens to Spithead. *Signed* by J. Trenchard, and (as a true Copy) by Wm. Bridgeman and *dated* 13 Sept. 1693. *Endorsed* as delivered this day.

(*t*) 27 Feb. Answers of the Admiralty to the additional Questions put to them on 23 Feb. (L. J., XV. 505, *in extenso*, and *see* Note to (*r*) above). They are as follows :—

(1) *Question*, Why that Squadron was not relieved by another, and whether they gave their opinion of the inconveniencies that might happen by removing that squadron, and at what time? Whether they were confined to what particular rates those 25 ships should consist of?

Answer—

Aug. 16th '93. The Merchants trading to the Barbadoes having petitioned for ships to cruise off Cape Clear, the Isles of Scilly and the Lizard, for protecting their ships expected to arrive on the coast of England or Ireland before the latter end of that month, and we having no ships to comply with their desires, laid their Petition before the Committee of Council, that there might be directions to have this service answered from the Main Fleet.

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Aug. 18th. Mr. Secretary Trenchard signified the Queen's pleasure that we should send orders to the Admirals of the Fleet to send some ships to cruise in the Soundings, to secure the return of the West India Fleet; and likewise to send two or more ships to Bilboa to bring home the merchant ships from thence, and send some ships to cruise in a proper station for their further security.

Aug. 22nd. Mr. Secretary Trenchard signified the Queen's further pleasure that, whereas we were directed to order the Admirals to send some ships to cruise in the Soundings, to secure the return of the West India Fleet, we should now order them to send 6 ships for that service, 2 to cruise off Cape Clear, 2 off Scilly, and 2 off the Lizard.

Aug. 29th. We received the Queen's pleasure from Mr. Secretary that, there being an occasion to employ some men of war upon a particular service, we should forthwith give orders for getting ready, as soon as might be, 6 fourth rates, 4 fifth rates, 2 fireships, 4 brigantines, 6 bomb vessels, 40 shallops, and three of the best sailing tenders, to be manned with chosen men out of the great ships and provided with things necessary for the said service, and also that we should send orders to the Admirals of the Fleet not to dispose of or employ upon any distant service any 4th or 5th rates, besides those already employed by any former orders.

Our orders for calling off the ships in the Soundings were not sent till the 13th of Sept. 1693, of which two came off the 20th, one the 27th, and the other not till some time after.

Sept. 9th. Mr. Secretary by letter signified to us the King's pleasure that 25 men of war should be forthwith fitted out for a particular service, and the Queen's pleasure that the said ships should be of the rates following, viz.:—

5 of 80 guns each,
11 of 70 and upwards,
6 of 60 and upwards,
3 of 50 and upwards.

Sept. 11th. We acquainted Mr. Secretary by our letter that the trade could not be secured but by a sufficient number of ships to be employed both as convoys and cruisers, and not to be taken therefrom for any other service.

Sept. 13th. Mr. Secretary signified the Queen's pleasure to us that the said 25 ships should come to Spithead as soon as may be.

(2) *Question.* At what time and to what Stations those squadrons were appointed, and what success they had?

Answer. Dec. 1st, 1693. Capt. Cross was ordered with the *Weymouth*, *Woolwich*, *James* Galley, *Portsmouth*, and *Flame* fireship, and such Dutch ships as should be ordered to join him, to cruise between Zealand, Dover and Calais, and use his utmost care and diligence to intercept all ships and vessels belonging to the enemy, and to seize and bring into port all ships and vessels he should meet with, laden with naval stores; and was further ordered, in pursuance of the Queen's pleasure signified by Mr. Secretary Trenchard, to bring in all ships belonging to neutral Princes or States, which he should meet with laden with corn.

Dec. 9th. Capt. Cross was ordered to take the *Discovery* Brigantine with him.

Dec. 22nd. Orders were given to Capt. Gother to take the *Coronation* and *Garland* and repair to that station and command the said squadron, with the like orders as were sent to Capt. Cross.

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Dec. 31st. Orders were given to Capt. Haughton to put to sea with the *Devonshire*, *Cornwall*, *Humber*, and *Boyne*, and cruise between Cape de Hague and Boulogne Bay, or in such other station as, by the advice he should receive, he should think most proper for intercepting a fleet of ships, under the convoy of some Swedes and Danish men of war, laden with corn and naval stores for France, which there was an account were to pass through the Channel, and to look carefully for them in all bays and creeks between Cape de Hague and Boulogne Bay, and upon meeting with them to bring them into the first port in England; and, in case of resistance, to sink, burn, take, or destroy them.

Dec. 31st. The like orders were sent to Capt. Cross to repair to the station between Cape de Hague and Boulogne Bay for intercepting the Swedes and Danes, with the ships under his command.

Dec. 31st. The like orders to Capt. Gother, to repair to the station between Cape de Hague and Boulogne Bay, with the *Coronation*.

Jan. 4, /93-4. Orders were sent to Capt. Weghman, upon information received that there were in Conquett ———— Road 300 sail of French merchant ships, to proceed with the *Play* Prize, hired *Bonadventure*, *Delavall*, *England* Frigate, and *Greyhound*, and cruise between the Isle of Bass, the Seven Islands and Guernsey, for intercepting the said French ships; and likewise to join with any other men of war cruising off Cape de Hague, Boulogne Bay, or between Zealand, Calais and Dover, as the service should require.

Jan. 4th. The like Orders to Capt. Haughton, of the *Devonshire*, and to Capt. Gother.

Jan. 5th. Orders sent to Capt. Gother to take care in his cruise, as often as the wind and weather would permit, to be either before Dunkirk or to the eastward, for intercepting the said corn ships.

Jan. 6th. Orders to Capt. Jennings, of the *Mary*, to join the squadron off Cape de Hague and Boulogne Bay.

Jan. 9th. Orders to Capt. Cross with the ships under his command cruising off Cape de Hague and Boulogne Bay to join the squadron betwixt Zealand, Calais and Dover, under Capt. Gother's command.

Jan. 11th. Orders to Capt. Ripley to proceed with the *Dartmouth* and *Smyrna Merchant* Hired, and join the squadron under Capt. Gother.

Jan. 16th. Orders to Rear Admiral Mitchell to send two Dutch men of war from Plymouth to join the squadron under the command of Capt. Gother off of Dunkirk; and the like orders to him to send the *Weymouth* and the *Portsmouth* to join Capt. Gother.

Jan. 20th. Orders to Capt. Cross to proceed with the *Weymouth* and the *Portsmouth* to join the squadron cruising between Zealand, Calais and Dover, in company of such Dutch men of war as were with him and ordered to that station.

Feb. 5th. Orders to Capt. Cross to proceed with the *Weymouth* and *Portsmouth* and cruise between Zealand, Calais and Dover, in company of such Dutch ships as were then with him or ordered on that station, for the intercepting of any French ships going to Dunkirk, and upon meeting with the *Coronation* or any other ships under the command of Capt. Gother, to join them.

Feb. 12th. Orders to Capt. Gother to proceed with the ships then with him, and cruise on his former station till the 25th or till further Orders, and then return to the Downs.

Feb. 20th. Orders to Capt. Weghman to proceed with the *Play Prize*, *Hampshire*, *Weymouth*, *Delavall*, *Saudadoes Prize*, *England* Frigate, *Kingfisher*, *Pearl*, *Crown*, *Norwich*, and cruise between

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CONVOYS—*continued.*

Station.	Rate.	Ship.	Date of Orders.	How long Ordered to Serve.
With Transport ships to Holland.	5	*Saudadoes Prize* -	10 April 1694	Till further Orders.
	5	*Prince George* -	10 April „	- ditto.
	5	*Pearl* - - -	28 May „	- ditto.
With Forces to Holland	5	*Prudence* - -	23 Feb. 169⅔	- ditto.
	5	*Smyrna Factor* -	18 May 1694	- ditto.
	3	*Rupert* - - -	28 May 1694	- ditto.
	5	*James* Galley - -	9 June 1694	- ditto.
With Forces to the Goree.	3	*Hampton Court* -	23 Mar. 169⅔	- ditto.
	3	*Kent* - - -	27 Mar. 1694	- *ditto* - - (? Sept.).
With Forces between Yarmouth, Leith and Holland.	4	*Dartmouth* - -	11 Mar. 169⅔	- ditto.
With Storeships and Victuallers from Portsmouth to Guernsey.	4	*Foresight* - -	25 May 1694	- ditto.
With Transport ships to Ostend.	6	*Julian Prize* -	18 Dec. 1693	- ditto.
With Transports between Bridlington, Yarmouth and the Maas.	6	*Mariana Prize* -	29 June 1694	- ditto.
To Holland - - -	5	*Prince George* -	5 Mar. 1693–4	- ditto.
To River Elbe - -	5	*Garland* - -	16 Mar. 169⅔	To stay at Hamburg Six days and return to Nore.
	4	*Bonadventure* Hired	20 April 1694	- ditto.
	5	*Prince George* -	7 Sept. 1694	Till further Orders, or performs the service.
To Hamburgh - -	5	*Sweepstakes* - -	7 Sept. 1694	Till performs the service.
To Elsinore - - -	5	*Prince George* -	29 June 1694	Till further Orders, or performs the service.
	4	*Bonadventure* Hired	2 July 1694	Till further Orders.
	4	*Oxford* - - -	7 „ „	Till further Orders, or performs service.
	4	*Rochester* - -	1 Oct. 1694	- ditto, or ditto.
To the Scaw in the Sound	5	*Prudence* - -	26 May 1694	Till performs service.
Gothenburg Convoy -	5	*Charles* Galley -	26 Mar. 1694	Till he performs service.
	5	*Scarborough* - -	- ditto - -	- ditto.
	5	*Shoreham* - -	- ditto - -	- ditto.
	6	*Jersey* - - -	- ditto - -	- ditto.
	3	*Dreadnought* - -	1 Oct. 1694	- ditto.
	3	*Stirling Castle* -	- ditto - -	- ditto.

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CONVOYS—*continued.*

Station.	Rate.	Ship.	Date of Orders.	How long Ordered to Serve.
Gothenburg Convoy -	5	*Smyrna Factor* -	1 Oct. 1694	Till he performs service.
	3	*Monk* - - -	11 Oct. 1694	- ditto.
	4	*Dartmouth* - -	1 Dec. 1693	- ditto.
To Newcastle - -	6	*Portsmouth* Sloop -	- ditto - -	Till further Orders.
To Newcastle and Leith	4	*Samuel and Henry*	27 Jan. 1693-4	- ditto.
With light cornships to Ireland.	5	*Pearl* - - -	6 March „	- ditto, or performs service.
	5	*Pearl Prize* - -	- ditto - -	- ditto.
	5	*Saudadoes Prize* -	- ditto - -	- ditto.
Attended His Majesty to Holland.	5	*Pearl Prize* - -	18 April 1694	Till H.M. arrival, and then return to the Nore.
	6	*Maidstone* - -	- ditto - -	- ditto.
	6	*Hind* Pink - -	- ditto - -	To follow H.M. Orders.
	6	*Lizard* - - -	- ditto - -	- ditto.
	4	*Oxford* - - -	20 April 1694	Till H.M. arrival, and then return to the Nore.
	4	*Portland* - -	- ditto - -	Till H.M. arrival, and then return to the Nore.
	4	*Reserve* - - -	- ditto - -	- - ditto.
	6	*Albro* Ketch - -	- ditto - -	- - ditto.
Attended His Majesty from ditto.	3	*Ipswich* - - -	29 Sept. 1694	To follow H.M. Orders.
	3	*Lion* - - -	- ditto - -	- - ditto.
	4	*Crown* - - -	- ditto - -	- - ditto.
	4	*Dover* - - -	- ditto - -	- - ditto.
	5	*Garland* - - -	- ditto - -	- - ditto.
	5	*James* Galley -	- ditto - -	- - ditto.
	6	*Mariana Prize* -	- ditto - -	- - ditto.
	6	*Sally Rose* - -	- ditto - -	- - ditto.
Attended on the coast of Ireland.	6	*St. Martin's Prize* -	1 Oct. 1693	To follow the Lords Justices' Orders, or till further Orders.
	5	*Virgin Prize* - -	22 Dec. „	To follow the L. Justices' Orders.
	5	*Dolphin* - - -	2 Jan. 1693-4	- - ditto.
	5	*Sapphire* - -	6 April 1694	- - ditto, or till further Orders.
	5	*Scarborough* - -	18 May „	To follow the L. Justices' Orders.
	5	*Pearl* - - -	8 June „	- - ditto, or till further Orders.
	6	*Talbot* Pink - -	- ditto - -	To follow the L. Justices' Orders.
	5	*Shoreham* - -	31 Aug. 1694	- - ditto.
	6	*Swift Prize* - -	—	- - ditto.
Attends on the Island of Jersey.	6	*Essex Prize* - -	4 Aug. „	Till further Orders.

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office having been searched, we do not by them find any ships lost from that convoy, but that they brought home all they went for.

Sixth Question, What was done by them upon the petition of some northern gentlemen, presented in January last, complaining of great losses for want of cruisers on the coast?

Answer. There were several ships fitting in the River, to be sent to the northward, but, as we gave your Lordships an account in our last Paper, they were delayed by the long frost, which are all that could then, or can at present, be spared, without neglecting other parts which we think require an equal care.

Last Question, What squadron we had in the Soundings when Vice Admiral Hopson was expected home with the Cadiz fleet, and at what time he arrived?

Answer. Vice Admiral Hopson arrived off the Lizard the 5th of April 1694 with the Cadiz fleet, and the *Dunkirk*, *Mary*, *Weymouth*, *Ruby*, *Dragon*, *Play Prize*, *Adventure*, were then cruising in the Soundings to look out for them. And there was likewise a squadron of ten 3rd rates with 4 fireships in the Downs, under the command of Sir George Rooke, Admiral of the Blue, which were ordered the 30th of March to the Soundings (which was as soon as they could be got ready) to join those ships and look for the said fleet, but were windbound in the Downs till Vice Admiral Hopson and the Canary fleet arrived.

Your Lordships are pleased to enquire why the convoys to the Straits, New England and Baltic have been so weak, and at the same time why the coast has not been better guarded, the French coasting trade interrupted, and their corn ships and naval stores intercepted; upon which we presume to inform Your Lordships that the number of ships employed will not answer the several services better, neither have we any more ships to set forth; nor can those employed be used to the best advantage, by being so soon or so long at sea as they ought, by reason of the great difficulties we are under to procure seamen. *Signed* (by command of the Commissioners) Wm. Bridgeman.

In answer to the latter part of the *Second Question*, concerning the success of the squadrons appointed to prevent corn ships and naval stores from going for France, a schedule is appended giving particulars of 180 French merchant ships and ships bound to France with corn and naval stores, being Swedes, Danes, Portuguese, Dantzickers, and Hamburghers, and two men of war and four privateers taken or destroyed at various places in the Channel and as far as Hamburgh and Yarmouth between 28 March 1693 and 25 Sept. 1694, with the dates and places of capture and the names of the men of war or officers concerned. It includes the following :—

French Merchant Ships and Ships bound to France with corn and Naval Stores.	Where taken or Destroyed.	By whom.	When.
A French merchant of 24 guns, 8 P., and 128 men, taken.	Off the Lizard -	*Mountagu* - -	21 May 1693.
12 ships laden with corn, ditto - -	Off Dover, delivered to the prize officers there.	Capt. Cross in the *Weymouth*.	3 Jan. 1693-4.
Four French merchants of 200 tons each and a Flyboat of 400, drove ashore on the rocks.	Near Sherbrook -	*Portsmouth*, *England* Frigate, *Greyhound*.	30 March 1694.
Eight ships laden with corn, taken -	Broad Fourteens -	*Essex* and *Edgar* -	23 April "

French Merchant Ships and Ships bound to France with corn and Naval Stores.	Where taken or Destroyed.	By whom.	When.
A French man-of-war and four merchants drove ashore, while our Privateers took six more.	Coast of France, near Jersey.	*Foresight* - -	17 May 1694.
One frigate and 35 merchants drove ashore, burnt and destroyed.	In and about Conquet Road.	*Monmouth* and *Resolution*.	10 May „
Sixty Danes and Swedes bound to France, taken.	Near Dieppe -	*Elizabeth*, *Swiftsure*, *Garland*, and *Goodwin Prize*.	29 June „
Six Danes and Swedes bound to France, taken.	Near Dieppe -	*Captain* - -	2 July „
Drove ashore four Privateers and two merchants and burnt one.	Off Cape de Hague	*Saudadoes Prize* and *Hind* Pink	23 „ „
Four merchants taken - - -	Between Jersey and Guernsey.	*Saudadoes Prize* -	25 Sept. „

The remaining 36 merchantmen were captured, either singly or in groups of two or three, by the following :—

Crown (1).
Mountagu (2).
Assurance (2).
Portsmouth (1).
Delavall (1).
Weymouth (7).
Rupert Prize (3).
Expedition, *Bredah* and *Canterbury* (1).
Essex and *Edgar* (3).
Rupert (1).
Sheerness (1).
Unity (3).
Vice Admiral Hopson (6).
Garland (Sir C. Shovell) (3).
Saudadoes Prize (1).

In answer to the *Third Question*, to give particular instances of the care they have taken, the Commissioners append the following :—

List of Ships appointed to cruise for intercepting the French Coast Trade.

Ships.	Date of Orders.	Where to cruise.
Chatham - - -	16 Jan. 1692-3	Between Dover and Calais.
Prudence - - -		
Lark - - - -		
Adventure - - -	23 „ „	Off Cape de Hague, Guernsey, &c.
Saudadoes Prize - -		
Portsmouth - - -	22 Feb. „	Off Ushant.
Plymouth - - -	6 March „	On the French coast.
Crown - - - -		
Adventure - - -		
Saudadoes Prize - -		
Goodwin Prize - -		
Hampshire - - -	21 „ „	Between Cape de Hague and Calais.
Portsmouth - - -		Between the Seven Islands and Ushant.
Assistance - - -		

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LIST OF SHIPS—*continued*.

Ships.	Date of Order.	Where to cruise.
Saudadoes Prize	11 April 1693	On the French coast.
Hampshire	27 June „	Between Calais and Cape de Hague.
Falmouth	25 July „	On the French coast.
Dover	4 Aug. „	Off St. Malo.
Mary Galley	7 „ „	Off St. Malo.
Weymouth	22 Nov. „	On the coast of France.
Newcastle	22 Nov. „	On the coast of France.
Mary Galley	22 Nov. „	On the coast of France.
James Galley	22 Nov. „	On the coast of France.
Flame Fireship	22 Nov. „	On the coast of France.
Discovery Brigantine	22 Nov. „	On the coast of France.
Devonshire	31 Dec. „	Between Cape de Hague and Boulogne Bay.
Cornwall	31 Dec. „	Between Cape de Hague and Boulogne Bay.
Humber	31 Dec. „	Between Cape de Hague and Boulogne Bay.
Boyne	31 Dec. „	Between Cape de Hague and Boulogne Bay.
Bonadventure Hired	4 Jan. 1693-4	Between the Isle of Bass, Seven Islands, &c.
Play Prize	4 Jan. 1693-4	Between the Isle of Bass, Seven Islands, &c.
Delavall	4 Jan. 1693-4	Between the Isle of Bass, Seven Islands, &c.
England Frigate	4 Jan. 1693-4	Between the Isle of Bass, Seven Islands, &c.
Greyhound	4 Jan. 1693-4	Between the Isle of Bass, Seven Islands, &c.
Coronation	4 Jan. 1693-4	Between Zealand, Calais and Dover.
Weymouth	4 Jan. 1693-4	Between Zealand, Calais and Dover.
Garland	4 Jan. 1693-4	Between Zealand, Calais and Dover.
Portsmouth	4 Jan. 1693-4	Between Zealand, Calais and Dover.
Woolwich	4 Jan. 1693-4	Between Zealand, Calais and Dover.
Mary	6 „ „	Between Cape de Hague and Boulogne Bay.
Dartmouth	11 Jan. 1693-4	Between Zealand, Calais and Dover.
Smyrna Merchant	11 Jan. 1693-4	Between Zealand, Calais and Dover.
Weymouth	16 „ „	Between Zealand, Calais and Dover.
Portsmouth	16 „ „	Between Zealand, Calais and Dover.
Dartmouth	29 „ „	Between Zealand, Calais and Dover.
Weymouth	5 Feb. „	Between Zealand, Calais and Dover.
Hampshire	20 „ „	Between Zealand, Calais and Dover.
Weymouth	20 „ „	Between Zealand, Calais and Dover.
Delavall	20 „ „	Between Zealand, Calais and Dover.
Saudadoes Prize	20 „ „	Between Zealand, Calais and Dover.
England Frigate	20 „ „	Between Zealand, Calais and Dover.
Kingfisher	20 „ „	Between Zealand, Calais and Dover.
Pearl	20 „ „	Between Zealand, Calais and Dover.
Crown	20 „ „	Between Zealand, Calais and Dover.
Norwich	20 „ „	Between Zealand, Calais and Dover.
Play Prize	20 „ „	Between Zealand, Calais and Dover.

LIST OF SHIPS—*continued.*

Ships.	Date of Orders.	Where to cruise.
Dragon	6 March 1693-4	Between Jersey and Guernsey.
England Frigate	6 „ „	To join *Dragon* and follow her Commander's Orders.
Portsmouth	20 „ „	Between Jersey and Guernsey.
Foresight	2 April 1694	Between Jersey and Guernsey and islands thereabouts.
Archangel		
Assistance		
England Frigate	6 „ „	
Portsmouth		
Greyhound		
Mountagu	12 May „	On the Broad Fourteens.
Oxford		
Henry Prize		
Mountagu	14 June „	
Oxford		
Dover		
Prince George		
Henry Prize		
L. Berkeley ordered to send 4 men-of-war	17 „ „	
Saudadoes Prize	20 „ „	Off St. Malo, Cape de Hague, Jersey and Guernsey.
Saudadoes Prize	2 July „	
Hind Pink		
Saudadoes Prize	29 Aug. „	With *Hind Pink* off St. Malo.
Ditto	9 Oct. „	Off St. Malo.
Hind Pink		
Saudadoes	12 Nov. „	
Hind Pink		
Sapphire	20 „ „	To join the *Saudadoes Prize* and *Hind* Pink off St. Malo.

Both Lists are *signed* (by command of the Commissioners), Wm. Bridgeman.

[The numbering of the Questions corresponds, not with that given in L. J., XV. 505, but with that of the Questions in L. J., XV. 502, which they are intended to supplement. The Answers were read on 27 Feb., and it was *moved* that a Committee be appointed to examine the Papers before the House and state the facts for the consideration of the House. Then the House went into debate of the State of the Fleet. *Moved* to resolve that the sending the Fleet to the Mediterranean the last year, and the continuing of it there this winter hath been a great advantage to His Majesty and the Kingdom; and it was resolved as in L. J., XV. 508. *Moved* that the further consideration of the State of the Fleet shall be resumed; and it was *ordered* to be resumed to-morrow (MS. Min. 27 Feb., L. J.

1694-5. — No. 886. XV. 508).—On 1 March the consideration was resumed, and it was *moved* that care be taken for the strengthening of the Fleet as much as may be between this and this time twelvemonth. That an humble address be made to His Majesty to strengthen the Fleet. *Moved* that the convoys be strong that go with the stores. *Resolved* that it be a Head for an Address to His Majesty to increase his naval force. Ordered as in L. J., XV. 509, and a Committee was appointed to draw up an Address, which was accordingly drawn on 2 March and agreed to be presented to the House (MS. Min. 1 March; Com. Book, 2 March). The Address was agreed to with alterations the same day (L. J., XV. 511 *in extenso*). It was presented on 7 March, and the King's Answer was reported on the 8th (L. J., XV. 512, 513). *cp.* No. 920.

887. Feb. 1.—Saint Michael Royal Act.—Amended Draft of an Act to confirm a grant made by the Rector of the united parishes of St. Michael Royal and St. Martin's in the Vintry, London, of part of St. Martin's churchyard. The Lords' Amendments were to add words providing that the proposed building shall be subject to the approval of the Bishop of London, and words limiting the Saving Clause in accordance with the Succession Act of 1 W. & M. *No Amendment* in the Commons. [Read 1ª this day. Royal Assent 22 April following, L. J., XV. 476, 562. 7 Will. III. c. 27 in Long Calendar. *See also* Com. Book, 11 Feb.]

888. Feb. 4.—Brooke's Estate Bill.—Amended Draft of an Act for vesting the Manor of Madely and other lands Tenements and Hereditaments in the County of Salop, the estate of Basil Brooke, Esq., in Trustees for raising moneys for the payment of debts and for securing his wife's jointure. The Draft Bill is to the same effect as the Act passed the following year (7 & 8 W. III. c. 8 in Long Calendar) except that it does not contain the name of the fifth Trustee, William Gower of Colmers, nor power to the Trustees to lay out money at interest, nor any provision for the support of Basil Brooke and his wife except out of income, nor the provision giving validity to sales &c. made by the Trustees; and that it limits the sum to be raised on the Estate to 10,000*l.*, and contains a garbled sentence referring to payment of debts out of income, which is wanting in the Act. [Read 1ª this day; some verbal amendments made in Lords' Select Committee on 20 Feb. and John Brooke the father, added in the exceptions to the Saving Clause. Returned from the Commons agreed to without amendment on 27 March; and Royal Assent refused on 22 April. L.J., XV. 477, 525, 563; Com. Book, 20 Feb. *See also* No. 889.]

889. Feb. 4.—Brooke's Estate Bill.—Lords' Engrossment of preceding as amended in Committee. *Parchment Collection.*

890. Feb. 4.—Queen Mary's Funeral. List of Offices to be filled by Peers at the Funeral, as follows:—The Banner of Chester, by a Baron. The Banner of Wales, by a Viscount. Banner of France and England, Quarterly, by an Earl. Banner of England, singly, by an elder Earl, or a Marquis or Duke. The great Banner of England, Scotland, France and Ireland, by a Duke. Two Supporters to the Chief Mourner to be two Peers of high rank. Six Dukes, Marquises, or Earls to carry the Pall. Delivered by D. Norfolk this day, pursuant to Order of 1 Feb. and read on 6 Feb. (MS. Min. Feb. 1, 4, 6. No entry in L. J.) *Endorsed* is an Order, dated 6 Feb., That the Duke of Norfolk bring in a List of such Peers as he thinks fit to execute the Offices herein mentioned at Her Majesty's funeral. L. J., XV. 481 [On 10 Jan. it was resolved to attend the funeral as a House, and a Committee

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was appointed to consider of the several circumstances relating to the Procession (L. J., XV. 457). There is no record of the proceedings of this Committee, but on 17th Jan. the Committee was revived (L. J., XV. 464) and on 18th Jan. the L. President reported from it That they are of opinion that the House of Peers do go between the body of Her Majesty and the House of Commons at the funeral, but have taken further time to consider which will be best, to go before or after the Body; and they do not think it convenient for the Peeresses to attend in the Procession. *Moved* to have a Conference with the House of Commons. The Report is marked Agreed, but the whole entry is at first scored through and then apparently allowed to stand; and an Order to revive the Committee is made (MS. Min. 18 Jan. *Compare* L. J., XV. 465). —The Committee was again revived on 29 Jan. (L. J., XV. 474), and on 31 Jan., in Select Committee, D. Norfolk Chairman, the following points were considered:—Whether any Great Officer to the Queen, not being a Peer, shall go between the Body and the House of Lords? Whether the House of Lords going in a body at the funeral, they think it proper that any of their members may perform any Office which shall take them out of the said Body; and, if they go, whether they shall go in their Robes? Whether, the Horse of State being led by the L. Viscount Villiers, what place he shall go in? The Statute concerning Precedency, 31 Hen. VIII. is read. Whether the Groom of the Stole shall, by virtue of her Office, take place of the Ladies of the Bedchamber of higher quality than herself? (Com. Book, 31 Jan.)— On 1 Feb., upon Report by the Duke of Norfolk that the Committee did not think fit, it being a matter of Privilege, to order anything, but refer it to the House, the 1st Query was read again, Whether the House of Lords going in a body at the funeral they think it proper that any of their members may perform any Office which shall take them out of the said body? *Resolved*, That the House allows such of their Members as perform any office at the funeral may go out of the body of the Peers, and that they shall go in their robes. *Ordered*, That the House will go immediately before the Queen's body, except those that carry the Achievements and the Queen's Lord Chamberlain. *Moved* to consider who these Lords should be that carry the Achievements. *Ordered* that the Duke of Norfolk bring to-morrow the Procession at the funeral. *Proposed* whether the Lords shall go in their hats or coronets. *Ordered*, hats. (MS. Min. 1 Feb.; L. J., XV. 476).—On 4 Feb. D. Norfolk accordingly brought in the above List, which was ordered to lie upon the Table until to-morrow. (MS. Min. 4 Feb.)—On 6 Feb. the above Paper was read and L. Willoughby d'Eresby was appointed to carry the Banner of Chester and V. Longueville that of Wales. On consideration of who should carry the Pall, *Agreed* D. Norfolk to name lords for the several places, and that he bring in such a List by Friday next. (MS. Min. 6 Feb.; L. J. XV. 481).—On 8 Feb. an Order was made leaving the matter wholly in E. Marshal's hands. (L. J., XV. 484.)—On 15 Feb., pursuant to Order of 13th (*ib.* 491), the E. Marshal laid before the House a Scheme of the Procession. *Agreed* to leave off the Banners of Chester, Cornwall and Wales. *Agreed* the 3 Banners to go in the State, the best in the middle, the next right hand, the other left. *Agreed* that the other Banners shall be part of the State. *Ordered* that there shall be amongst the Assistants to the Chief Mourner one at least of the ladies of each rank of the nobility. Upon proposition of the posture the L. Keeper is to go in, *agreed* that his train be held up, and that his Purse be carried, and his Mace before him; and the Gentleman Usher of the Black Rod to go on the

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right hand of the Serjeant at Arms (MS. Min. 15 Feb.; L. J., XV. 496).—On 16 Feb., *moved* concerning the place the choir shall attend at the funeral. The part of the Rubric read in this case. *Ordered* that the Dean of Westminster and the rest of the Choir do proceed in the Abbey between the Queen's L. Chamberlain and the Body. *Ordered* that, when the whole form of the Procession is settled, it shall be again laid before this House by the E. Marshal. (MS. Min. 16 Feb., L. J., XV. 496.)—On 21 Feb., *moved* that the Surveyor of the Works be sent for concerning some alteration of places in the Abbey Church. *Ordered* that the Surveyor of His Majesty's Works be sent for. *Ordered* to have a Canopy in the Abbey. A Woolsack before the Canopy for the Speaker, in manner as it is here, as near as may be. No places for the Judges nor Clerks. *Sir Christopher Wren* called in and told that there shall be in the Abbey a Canopy and a Chair of State with a Woolsack at the foot of the steps for the L. Keeper; and the whole space where the Peers are to sit to be kept as near the form of this House as conveniently it may be with respect to the place in the Abbey, without any woolsacks. Sir Ch. Wren is ordered to draw a scheme (MS. Min.; no entry in L. J.).—On 25 Feb. the *MS. Minutes* add to the entry in L. J., XV. 506 an Order that the *House* should walk in this Procession uncovered.—On 26 Feb. the Surveyor General was called in and told that he must proceed according to the last Order or intimation given him, and that he take care of the houses and scaffolds in the street, that they be strong. *Moved* that the Lords shall sit in their respective places in the Abbey. A debate arose concerning the Lords walking uncovered in the Procession. The *Question* was put whether the last Order shall stand? It was resolved in the Negative. *Moved* That Guards be set to take care that no coaches be permitted to come into the Old Palace Yard but Lords' of this House and Peeresses'. *Ordered* (MS. Min. 26 Feb.; no entry in L. J.).—On 1 March, *moved* that some alteration be made in the Abbey. *Mr. Surveyor General* was called in and told that the Lords apprehend that there is so little ascent in the Abbey that Lords cannot be seen. *Answer* It is as I was directed. The dimension is the same as this. (MS. Min.)—On 2 March, *D. Norfolk* heard *in relation* to the funeral of the Queen, concerning the place of *the Banner* of Scotland. *Proposed* the Banner of Scotland to go in the same place with the other banners. That the 3 banners already placed be carried before; and before the other two banners, carried by Scotch and Irish peers, there be two heralds. Agreed to as the D. Norfolk. That the two Banners of Scotland and Ireland shall be within the State, only two heralds between the 3 banners already placed. *Moved* that the Procession begin at 10 of the clock in the forenoon. The House was acquainted that the Lords meet in the Council Chamber and the Gallery, and the Commons in the Banqueting House. *Moved* that a pair of back stairs be made behind the State in the Abbey for Peers' sons to go up at. *Ordered* that this House shall be adjourned this day to Tuesday next in the Council Chamber at Whitehall, and from thence adjourned to the Abbey in Westminster, and from the Abbey adjourned to this place on Thursday next 10 o'clock. *Ordered* that the banners of Chester, Cornwall and Wales be carried in the State, and precede the Scotch and Irish nobility, by a Baron, an Earl's eldest son, and a Viscount, and the Banner of Wales in the middle. *Ordered* as to stairs in the Abbey, as in L. J. (MS. Min. 2 March; L. J., XV. 510).—On 5 March, after the 3 Orders in L. J., XV. 511–2, the Lords went to see the Queen's State, and were called over by the Herald; and

the Lord Keeper went first, and so the highest Peers next. The L. Keeper, by order of the House adjourned to Westminster Abbey, and the Lords at the Council Chamber were called over, beginning at the lower Baron first, and so they went in the Procession. The Lords came to the Abbey Church, and sat in order as if they had been in the House; and a Sermon was preached by His Grace the L. Abp. of Canterbury. The L. Keeper, by directions of the [House], adjourned to the Council Chamber at Whitehall, to which they went transversed to what they did before, the L. Keeper going first, and so the Dukes, Earls, Viscounts, Bishops and Barons following. Council Chamber, The Lords came in as they went out of the Abbey. Then follows the adjournment in English, as in L. J. (MS. Min. 5 March; L. J., XV. 511–2).]

891. Feb. 5. Chaitor's Estate Act.—Amended Draft of an Act to vest certain lands of Sir William Chaitor, Bart., in Yorkshire and Durham, to be sold for payment of Debts charged thereon; and to secure Portions for younger children. The Lords' Amendments were to fill in the names of the Trustees and the date of the commencement of the Act. Those of the Commons were merely drafting ones. [Read 1ª this day; Royal Assent 22 April. L. J., XV. 479, 562. 7 Will III. c. 34 in Long Calendar. *See also* Com. Book. Feb. 14, 23.]

Annexed:—

(*a*) 23 Feb. Consent to the Bill of Ralph Hutton, of Memforth, Durham, Esq., nephew and heir of Thomas Craddock, Esq., deceased, the surviving Trustee of Sir William Chaitor's Marriage Settlement. *Dated* 19 Feb. *Signed* Ra: Hutton. *Attested* Hammond Beaumont, Nic: Wilson. [Produced before the Lords' Committee this day. Com. Book.]

892. Feb. 6. Sparhawke *v.* Alcock.—Petition and Appeal of John Sparhawke, Gent., brother and heir and Executor of James Sparhawke. James Sparhawke, having a freehold and copyhold estate in Freshingfield, Theberton and Stradbrooke, in Suffolk, worth 40*l.* a year, and a personal estate, devised the lands to Petitioner, his heir at law, and his heirs for ever, and among other legacies, left Susan Alcock 200*l.*, to be paid by Petitioner, his heir and executor, within five years after his death. The personal estate was insufficient to pay the legacies. Susan Alcock then sued Petitioner in Chancery for her 200*l.* legacy, and on the parol evidence of her father and sister, two other legatees, that the testator had said it should be paid out of the profits of his lands, though there are no words to that effect in the Will, obtained a Decree for the legacy, interest and costs, amounting to 365*l.* 4*s.* 2*d.*, to be levied by the sale of Petitioner's estate if unpaid. Petitioner's Bill of Review was dismissed on the informality, that he had not procured an Order to dispense with the prior performance of the Decree, and Petitioner appeals on the grounds (1) that it was founded on parol evidence, contrary to the Statute of Frauds; (2) that it went beyond the parol evidence, which only made the rents for 5 years liable, whereas the Decree takes away the inheritance; and (3) that no account was taken of the personal estate being insufficient for the legacies and debts, Petitioner being only Executor in that regard. Prays Susannah Alcock may be ordered to answer and proceedings on the Decree stayed. *Signed* Jo. Sparhauke. *Countersigned* Tho: Trevor, Hen: Foley [Read this day. L. J., XV. 480. At the hearing on 25 Feb. the *Solicitor General* and *Mr. Pooley* appeared for Appellant, and *Mr. Finch* and *Mr. Vernon* for Respondent. The evidence of Catherine

1694-5. — No. 892. and Stephen Alcock, as to the directions for the Will, were read (MS. Min. 25 Feb.), and the Appeal was dismissed. L. J., XV. 506.]

Annexed :—

(*a*) 16 Feb. Answer of Susan Alcocke. Testator's lands were worth 70*l.* a year. He would have married Respondent if he had lived. Appellant wrote his brother's Will, and purposely omitted inserting his brother's words charging Respondent's legacy on the land, knowing the personal estate would not suffice to pay it, and intending to defraud Respondent. *Signed* Susan Alcocke. *Countersigned* Tho: Vernon. *Endorsed* as brought in this day. (MS. Min. *this day.*)

893. Feb. 7. Pitt's Estate Act.—Amended Draft of an Act for supplying certain defects in the directions made in and by a Deed of Trust and the last Will of George Pitt, Esqre., deceased, for settling his Estate. The Lords' Amendments were only to fill in the blanks with the sums vested in the Trustees and to be raised by them. No amendment in the Commons. [Read 1ª this day; Royal Assent 15 March. L. J., XV. 482, 519. 7 Will III. c. 6 in Long Calendar. *See also* Com. Book, 14 Feb., where besides the names *mentioned in* the annexes, Sir John Morton, Mr. Anthony Guydec, Mr. Nicholas Pitt, Mr. Thomas Cutt and Mr. Thomas Pitt were present and consented in person to the Bill.]

Annexed :—

(*a*) 14 Feb. Consents to the Bill read this day before the Select Committee (Com. Book), viz. :—

(*a*)[1] Of Francis Stephens, Clerk, one of the Executors of George Pitt, the elder, Esqre., deceased. *Dated* 9 Feb. *Attested* Henry Pomfrett, Randolph Caulay.

(*a*)[2] Of John and Christopher Pitt, gentlemen, sons of Robert Pitt, gentleman, deceased. *Dated* 9 Feb. *Attested* Henry Pomfrett, Richard Knapp.

(*a*)[3] Of Thomas Freke, Esq., one of the Trustees of George Pitt the elder. *Dated* 11 Feb. *Attested* Thomas Pile, Robt. Freke, John Glover, Henry Pomfrett.

(*a*)[4] Of Sir Charles Browne, of Kiddington, Oxon, Bart., and Dame Mary his wife, daughter of George Pitt, Esq., late of Stratfieldsea, Hampshire, of Elizabeth and Jane Pitt, his second and third daughters, and Frederick Tylney, of Tylney Hall, Hampshire, and Anne his wife, the fourth daughter. *Dated* 11 Feb. *Attested* Tho: Freke, Wm. Pitt.

(*a*)[5] Of the above Frederick Tylney, as one of the Trustees of late Geo. Pitt. *Dated* 12 Feb. *Attested* as preceding.

(*b*) 14 Feb. Amendments made this day in Lords' Select Committee, described above. Com. Book.

(*c*) Consent to the Bill of William Pitt, of Stratfield Turgis, Hampshire. *Dated* 22 Feb. *Attested* Tho: Freke, Tho: Pitt. [Produced probably before the Commons' Committee, which was appointed on 26 Feb. (C. J., XI. 247). Mr. Pitt was present in the Lords' Committee, and gave his consent in person. Com. Book 14 Feb.]

894. Feb. 7. Whichcot's Estate Act.—Amended Draft of an Act for enabling Sir Paul Whichcot, Knt. and Bart., and Dame Jane, his wife, to make leases for 99 years of the Manor of Tooting-Graveney, and any of their Messuages, Lands, and Hereditaments in Tooting-Graveney, Tooting-Beake, and Stretham, in the County of Surrey, for the better

improvement thereof. The only Lords' Amendment was to insert words making the consent of the Trustees, Sir John Garrard and Christopher Cratford, necessary to a lease of the lands, and the only one made by the Commons was to make their seals and signatures necessary. [Read 1ª this day; Royal Assent 22 April, L. J., XV. 482, 562. 7 Will. III. c. 35 in Long Calendar. *Endorsed* mem: Sir Paul Wichcott writes his name with a single "t" at the end; *vide* Deed of Settlement. The above-mentioned Lords' Amendment was made on 19 Feb., at the instance of Sir John Garrard, who refused to consent to the Bill otherwise. Com. Book, Feb. 15, 19.]

Annexed:—

(*a*) 15 Feb. Consent to the Bill, of Sir Francis Pemberton, Knt., Serjeant-at-law, Christopher Cratford, Gent. and Thomas Neale, Esq., three of the four Trustees of Sir Paul Whichcot and Dame Jane, his wife, the fourth, Sir John Garrard, having refused to sign the paper, though named in it. *Dated* 8 Feb. *Attested* (as to the first two) Matt: Whichcot, Tho: Brandon, and (as to Neale) Matt: Whichcot, Sam: Allen. [Read this day in Lords' Committee. *See* Note above. Com. Book, Feb. 15, 19.]

895. Feb. 7. Wentworth's (Woolston and Marston) Estate Bill.—Draft of an Act for ascertaining the Estates and Interests of the several persons concerned in the improvement of the Manors of Woolston and Marston in the County of Warwick. Fisher Wentworth, *alias* Dilk, Esq., was by the Wills of Sir Peter Wentworth, Knight of the Bath, and Paul Wentworth, Esq., seized in fee simple of the Manors and lands of Woolston and Marston, except certain property formerly the inheritance of Roger Wigston, Esq., and other property, which by Paul Wentworth's Will was entailed on Fisher Wentworth and his sons, with remainder to Wentworth Dilk, now 19 years old, and except some lands belonging to John Farndon and others, and some Glebe lands belonging to Jonathan Stafford as Vicar of Woolston. The entailed lands, before the entail, were mortgaged for 1,700*l.*, and the legal interest of the whole Estate is now, by original mortgage and mean conveyances, vested in Sir Robert Dashwood of Norbrooke, Oxon, Bart., as security for 8,490*l.*, and charged with a life rentcharge of 50*l.* to Mary Cheekley, wife of William King, and of 80*l.* to Elizabeth Creswell, widow of Philip Welbore, Esq. Fisher Wentworth exchanged certain other lands for those belonging to John Farndon and others and to the Vicar, and agreed with Wentworth Dilk to entail them in the same manner as the other entailed property, charged with the 1,700*l.* The Bill is to confirm this exchange, and entail the exchanged lands, subject to the payment of the 1,700*l.* to Sir R. Dashwood, on Fisher Wentworth and his sons, with remainder to Wentworth Dilk and his heirs. The rest of the Manors subject to the above-mentioned rentcharges are vested in Sir R. Dashwood until 6,790*l.* and interest is paid to him, and afterwards in Trustees for Fisher Wentworth. [Read 1ª this day, and 2ª, and committed on 12th Feb., but dropped in Committee without being considered, after several adjournments. L. J., XV. 482, 489, and Com. Book, Feb. 14, 16, 20, 22, 26.]

896. Feb. 8. E. Rochester's Estate Act.—Amended Draft of an Act for the dividing and settling the Estate of the Co-heirs of John, late Earl of Rochester, deceased, and for discharging the Trusts thereupon. The principal Lords' Amendments were, to fill in the shares of each co-heir

1694-5. — No. 896. (*see* Annexes below), and the sums charged on them payable to William Boteler, which had been left blank in the original draft. The other Lords' Amendments are purely verbal. The Commons added the words saving the right of the infant John Baynton. [Read 1ª this day. Royal Assent 22 April. L. J., XV. 483, 562. 7 Will. III. c. 23, in Long Calendar. On 14 Feb., in Committee, Mr. Page for E. Sandwich and Mr. Vaughan propose to cast lots. Mr. Holles (Hawles) desires the Trustees may elect which lot they please for the Infant. Com. Book, Feb. 12, 14, 18, 19.]

Annexed :—

(*a*) 18 Feb. Paper containing the words of the Act defining the share of the Countess of Sandwich, added this day in Select Committee, being offered by Mr. Page. Com. Book of date.

(*b*) 18 Feb. Similar Paper as to Lady Anne Greville, added this day in Select Committee. Com. Book of date.

(*c*) 18 Feb. Similar paper as to Lady Mallett Vaughan, added this day in Select Committee. Com. Book of date.

897. Feb. 8. Gage's Estate Act.—Amended Draft *of an Act to* enable Trustees of William Gage, Esq , to raise money by a mortgage of part of his Estate for the preservation of the timber growing thereon. The Lords' Amendments, besides some drafting ones, were to insert the names of the Trustees and the amount to be raised, which had been left blank in original Draft. No amendment in the Commons. [Read 1ª this day. Royal Assent 22 April following. L. J., XV. 483, 562. 7 Will. III. c. 41, in Long Calendar. *See also* Com. Book, 27 Feb.]

Annexed :—

(*a*) 27 Feb. Affidavit of William Covell, of Horinger, Suffolk, Gent., that he knows the Estate, having been the Steward nearly 20 years. The timber in Hengrave Park is worth 1,000*l.*; the Hyde wood, 1,000*l.*; the Cheventon and Barrow timber, 350 acres, 8,000*l.*; that on the Cheventon farms, 1,000*l.* All this had been purchased of Sir Edward Gage, Bart., by his eldest son, William Gage. The timber on the Manors of Hargrave, Tisby, Feldington, and Oxastrind is worth 1,500*l.* This is a very modest computation made by Deponent and one Thomas Sturgeon, a timber master. *Sworn* on 23 Feb. at Bury St. Edmunds before Edmo: Colman, an Extraordinary Master in Chancery. *Endorsed* Capt. Covell's Affidavit, and *addressed* to Mr. Tho: Covell, at Mr. Resbell's House, a Grocer at Holborn Bars, London. [Read this day before the Committee, and Thomas Covell examined. Com. Book.]

(*b*) 27 Feb. Consents to the Bill, produced before the Committee this day (Com. Book of date), of

(*b*)[1] Sir Edward Gage, of Hengrave, Suffolk, Bart., Mary Charlotte Gage, wife of Wm. Gage, Esq., Henry Lord Dover of Cheavely, Cambridgeshire, and William Bond, of St. Edmundsbury. *Dated* 18 Feb. *Attested*, Rupert Easthand for all, and John Williams, Will: Covell, Edward Liddell and Will: Covell for the four respectively.

(*b*)[2] Edward Gage, of St. Edmundsbury, Esq., Penelope Sulyard, of Hawley Park, Suffolk, widow, and Mary Bond, wife of Wm. Bond. *Dated* 18 Feb. *Attested*, Rupert Easthand for all, and Sarah Oxborough, Andrew Sulyard, and Will: Covell for the three respectively.

(*b*)[3] Wm. Hanmer, of Bettifield, Flintshire. Dated 19 Feb. *Attested* Susan Hanmer, Edward Randle. 1694–5. —

(*b*)[4] Francis Gage, of Packington, Stafford, Esq., provided the persons whose names appear in the Act as Trustees are made Trustees. *Dated* 21 Feb. *Attested* Charles Somerset, Rupert Easthand. No. 897.

(*b*)[5] Charles Gage, one of the sons of Sir Edward Gage. *Dated* 26 Feb. *Attested* John Williams, Rupert Easthand.

(*c*) 27 Feb. Lords' Amendments made in Select Committee this day. They are described above. [Com. Book of date.]

898. Feb. 11. E. Thanet's Estate Act.—Draft of an Act for confirming two Indentures Tripartite, the one of lease and the other of release, made between the Rt. Hon. Thomas, E. of Thanet Island, of the first part, the Hon. Sackville Tufton, Esq., of the second part, and the Hon. William Cheney, Esq., and Sir Charles Tufton, Knight, of the third part, and the Estates thereby settled. No amendment in either House. [Read 1ª this day. Royal Assent 22 April. L. J., XV. 487, 562. 7 Will. III. c. 22, in Long Calendar. Com. Book, 13 Feb.]

899. Feb. 12. Baden *v.* The King and Queen.—Petition of David Allen, Coachmaker. Had been forced to outlaw one Edw: Clerke for a debt on a Bond and seize his lands in their Majesties' names. Has been long delayed by special pleadings and Writs of Error brought by Robert Baden, the Plaintiff, and kept out of his just debt for over four years. Prays for a short day for hearing. [Read this day. L. J., XV. 489. The Writ of Error was brought in 24 Jan., *ib.* 470. At the hearing on 20 Feb. *Sir Tho: Powys* opened the Cause for plaintiff: The case is short. Baden in Mich. term 1688 recovered a judgment for 1,800*l.* against one Clerke, and a Bond was entered in to one David Allen. Allen prosecuted to an Outlawry. This mischief is great, and of such consequence that we hope the judgment shall not stand. *Mr. Northey*, for same: The contest is not between Mr. Baden and the King, but Mr. Allen, upon an outlawry not proceeding on a mean process. The King is not concerned. It is at the suit of the party. The party is to have satisfaction. The forfeiture to the King is for the people. Jermy Hadley's Case, Crook. *Sir Barth: Shore* (for Defendant): Never was this plea thought of before. Every term this hath been done, and we have the records of the Court in this case. We have all precedents and they none. *Question*, If a man gives a judgment for money, whether he may not give a bond to a friend to be sued clandestinely. It will not void the judgment. If it is not real it is nothing. *Mr. Dod*, for same: The law is very clear. The King's hand shall not be removed. The King has a prerogative in this case. Hubert, 174. It is plain an interest cannot pass until election be made. His election coming after shall never affect the King. Fictions in law cannot bind the King. The Plaintiff is not in a condition to contest with the King. He is not tenant by an *Elegit.* No man can be called a tenant that has nothing in holding. Nobody ever yet attempted to show such a plea. (MS. Min. 20 Feb.) The judgment was affirmed, with 20*l.* costs and the Record remitted. L. J., XV. 501.]

900. Feb. 14. Salisbury House Act.—Draft of an Act to enable the Guardians of James, Earl of Salisbury, to make leases of Salisbury House and some other hereditaments in the Strand, in the County of Middlesex, for improvement thereof by building. No amendment in either House. [Read 1ª this day. Royal Assent, 22 April. L. J., XV. 494, 562, 7 Will. III. c. 21, in Long Calendar.]

1694–5. — No. 901.

901. Feb. 14. Webb's Estate Act.—Amended Draft of an Act for sale of part of the estate of Jonathan Webb, Esq., for discharge of debts and incumbrances charged thereupon. The Lords' Amendments were to fill in the names of the Trustees, to insert the names of the legatees, William Webb, Robert Clarke, and Susanna Webb, and to insert the proviso saving the rights of the creditors of Lettice Webb and Richard Webb. No amendment in the Commons. [Read 1ª this day. Royal Assent, 22 April. L. J., XV. 492, 562, 7 Will. III. c. 37, in Long Calendar. *See also* Com. Book, 21 Feb.]

Annexed :—

(*a*) 21 Feb. Consent to the Bill, of Ruth Chamberlaine, of Springfield, Essex, widow, and Benjamin Chamberlaine, of Chelmsford, Apothecary. *Dated* 18 Feb. *Attested*, Samuel Woodgate, Thomas Manwood. [Read before Committee this day. Com. Book.]

(*b*) 21 Feb. Lords' Amendments in Select Committee this day. They are described above. Com. Book.

(*c*) 21 Feb.—Draft proviso saving the rights of the creditors of Lettice Webb and Richard Webb, added this day in *Committee*. Com. Book.

902. Feb. 14. Gollop's Estate Act.—Amended Draft of an Act to enable Peter Gollop, Gent., to sell a farm and certain lands called Wantsley, and to vest the inheritance thereof in fee simple in such person or persons who shall be purchaser or purchasers thereof from him, subject only to the payment of the sum of 1,000*l.* principal money with the interest thereof due and to grow due unto the executory estate of Robert Merefeild, Gent., deceased. The only substantial Lords' Amendment was the introduction of Richard Wadden into the Bill. The Commons' Amendment was merely a drafting one. [Read 1ª this day. Royal Assent, 22 April. L. J., XV. 494, 563. 7 Will. III. c. 43, in Long Calendar. *See also* Com. Book, 20 Feb., 1 March.]

Annexed :—

(*a*) 1 March.—Consent to the Bill, of Benjamin Studley *of* Broadwinsor, Dorset, Gent., Administrator with the *will* annexed of Robert Merefeild, late of Lower Park, Broadwinsor, during the minority of Robert Merefeild, his son, who is yet a minor. *Dated* 23 Jan. *Attested*, Hugh Gundrey, Christopher Pearce, Daniel Banks (by his mark) and Tho. Gollop. [Read this day before Committee, and sworn to by Giles Studley, the son. Com. Book.]

(*b*) 1 March.—Lords' Amendments this day in Select Committee. They are described above. Com. Book.

903. Feb. 15. Simony Bill.—Amended* Draft of an Act for the more effectual preventing of Simoniacal Contracts. Whereas the free and disinterested presentation and collation to Ecclesiastical Benefices, Dignities, and Preferments is a great encouragement to Piety and Learning, and most agreeable to the design and intention of the Founders of such Benefices, Dignities and Preferments; and whereas the laws now in force are by experience found to be ineffectual to those ends, and the penalties now inflicted upon Simoniacal Patrons and others who have the presentation or collation to such Ecclesiastical Benefices, Dignities and Preferments are not sufficiently severe to

* The additions in C.W.H. on 18 Feb., supplied from MS. Min., and Annex *c* below, are printed in italics; the omissions in square brackets.

restrain or deter them from corrupt and simoniacal contracts and agreements, by which means unworthy persons are frequently presented or collated to such benefices, dignities and preferments for money or other private advantage to the patron, without any regard to the worth, piety, or learning of the person so promoted, to the great dishonour of the Church, decay of religion and prejudice of the public; For remedy whereof, Be it enacted by the King's most Excellent Majesty, *by and with the advice and consent of* the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the Authority of the same, That if any person or persons shall or do at any time after *the 25th day of March* 1695, for any sum of money, reward, gift, profit, or benefit, directly or indirectly, or for or by reason of any promise, agreement, grant, bond, covenant, or other assurance, of or for any sum of money, reward, gift, profit, or benefit whatsoever, directly or indirectly, present or collate any person to any benefice with cure of souls, dignity, prebend, or living ecclesiastical, or give or bestow the same for or in respect of any such corrupt cause or consideration, that then, from and after such corrupt presentation or collation, the person who shall take any such sum of money, reward, gift, or benefit, directly or indirectly, or shall take any such promise, grant, bond, covenant, or other assurance, for or in consideration of any such presentation, collation, giving or bestowing, shall not only be liable to the penalties of former laws, but shall also be, and is hereby, adjudged a disabled person in law ever to present or collate again to the same benefice, dignity, prebend, or living ecclesiastical. [And be it further enacted by the authority aforesaid, that from and after the King's turn satisfied by presenting, collating unto, giving, or bestowing any such benefice, dignity, prebend, or living ecclesiastical, void by such corrupt and simoniacal contract and promotion, it shall and may be lawful to and for the Bishop of the Diocese to which any such benefice, dignity, prebend, or living ecclesiastical so corruptly presented or collated unto, given or bestowed shall belong, and to the Archbishop of the Province if the Bishop of the Diocese shall make any such corrupt or simoniacal contract and promotion, to present, collate unto, give, or bestow any such benefice, dignity, prebend, or living ecclesiastical as often as it shall become void, for and during the natural life of such simoniacal patron, any law or statute to the contrary notwithstanding. Provided always, that it shall and may be lawful to and for the Guardian of the Spiritualties in the vacancy of the See to present or collate unto, give, or bestow any such benefice, dignity, prebend, or living ecclesiastical upon the same occasion and in the same manner as the Bishop of the Diocese is appointed and authorised to do by virtue of this Act, anything herein contained to the contrary thereof in anywise notwithstanding.] *And be it further enacted by the Authority aforesaid that it shall and may be lawful to and for the King's Majesty his heirs and successors to present, collate unto, give, or bestow every such benefice, dignity, prebend and living ecclesiastical void by such corrupt and simoniacal contract and promotion, as often as it shall become void, for and during the natural life of such simoniacal patron, any law or statute to the contrary notwithstanding.** Provided also that this Act or anything therein contained shall not in anywise extend to take away the right of inheritance which any such simoniacal patron at the time of any such corrupt contract and agreement hath or shall enjoy in or to any such presentation, collation, or donation, but that the right of and in

* This clause was apparently drawn by the Justices Eyre, to give effect to words substituted on 18th Feb. for those omitted. *See* Note below. MS. Min. 18 Feb.

1694-5. — No. 903. every such presentation, collation, or donation, from and after the decease of every such simoniacal patron shall descend or come to the heir at law or the successor of every such simoniacal patron, or to such other person or persons as he shall give, grant, devise, or dispose the same, which said heir, successor, donee, grantee or devisee, and every other person or persons claiming by, from, or under them shall and may present or collate unto, give or bestow any such benefice, dignity, prebend, or living ecclesiastical, in as large and ample a manner as if this Act had never been made, this Act or anything therein contained to the contrary thereof in anywise notwithstanding. [Read 1ª this day and 2ª and committed to C. W. H. on 18 Feb. (L. J., XV. 494, 497, 498), when the above-noted amendments were made, and *Mr. Justice Eyre* was heard: I am of opinion there ought to be a Proviso to exempt Bonds of Resignation. *Ordered* that the two Mr. Justices Eyre do draw a Clause to be inserted, and a Proviso to prevent the forfeiture of Bonds for Resignation. House to be again in Committee on 21st. (MS. Min. 18 Feb.) No further proceedings.]

Annexed :—

(*a*) Paper containing two Clauses drawn by the two *Mr. Justices* Eyre, viz., the one set out above, giving the presentation to the King, and one, to be added at the end of the Bill, as follows :— Provided also that it shall and may be lawful to and for any Patron, upon such presentation, collation, giving, or bestowing any such benefice, dignity, prebend, or living ecclesiastical to take from every such presentee or collatee a Bond to resign the same; and that such Bond shall be good and effectual in the law, this Act or anything herein contained to the contrary thereof in any wise notwithstanding. [Ordered on 18 Feb. MS. Min.]

(*b*) Fair Copy of the Bill as amended, including the Proviso as to Bonds of Resignation (Annex *a*).

904. Feb. 15.—Fleetwood's (Marton Meare) Act.—Draft of an Act for the ratifying and confirming a certain Indenture of Lease of *Marton* Meare in the County of Lancaster, made by the Earl of *Derby* and others to Tho. Fleetwood, Esq. No Amendment in *either* House. [Read 1ª this day. Royal Assent, 22 April. L. J., XV. 495, 562, 7 Will. III. c. 31 in Long Calendar.]

905. Feb. 18.—M. Tavistock's Estate Act.—Amended Draft of an Act for settling divers Manors and lands upon the marriage of the Marquess of Tavistock, grandson of William, Duke of Bedford. The only substantial amendment of the Lords was the filling in of the Trustees' names. The Commons' amendments were merely drafting ones. [Read 1ª this day. Royal Assent, 22 April. L. J., XV. 497, 562, 7 Will. III., c. 20 in Long Calendar. *See also* Com. Book, 26 Feb.]

Annexed :—

(*a*) 26 Feb.—Consents read in Lords' Committee this day (Com. Book), of the following persons :—

(*a*)[1].—Rachel, Lady Russell, Wriothesley, M. Tavistock, Elizabeth Howland, widow, and Elizabeth Howland, sole daughter and heir of John Howland, Esq., deceased. *Dated* 25 Feb. *Attested* Mary Attwood, M. Williams, John Hoskins, Jo: Spencer.

(*a*)[2].—Sir Josias Child, Baronet, one of the Trustees. *Dated* 25 Feb. *Attested* Tho: Holt, Fran: North, Jo: Spencer.

(*a*)[3].—William D. Bedford. *Dated* 26 Feb. *Attested* Robert Russell, James Russell, John Hoskins, Jo. Spencer. [Mr. John Spencer swore to the consents before Select Committee, and Lord Tavistock, L. Edward, L. Robert, and L. James Russell, were present and gave their consents. Com. Book, 26 Feb.]

906. Feb. 19.—Duvall and Lady Purbeck *v.* Terry. Petition and Appeal of John Duvall, Esq., and Elizabeth, commonly called Vicountess Purbeck, his wife. William Terry, of London, merchant, married Ann, the widow of William Kirwood, a laceman, and held a Bond dated 1675, entered into by the Appellant Lady Purbeck in the penalty of 140*l.*, conditioned to pay 72*l.* for silver lace supplied. Lady Purbeck denies it ever was supplied, she having been in mourning for V. Purbeck at the alleged time, and quotes the testimony of various persons that she had never ordered or received any, her attorney's plea that she had paid the bill being against Duvall's orders to plead *non est factum*. One of the witnesses to the Bond denied his signature. Terry, however, obtained a Decree in Chancery, for payment of the bill and interest, with costs, and the whole was taxed at 221*l.* Pray to be relieved against the Decree on the grounds of the want of evidence of the liability having been incurred, or that it was during V. Purbeck's lifetime, to whom Lady Purbeck never administered, and that the amount taxed was greater than the penalty of the Bond. *Signed*, J. Duvall, E. Purbecke; *Countersigned*, Wm. Whitelocke, Wm. Attwood. [Read this day. L. J., XV. 499. The Counsel at the Hearing on 20 March were *Sir Barth: Shore* and *Mr. Attwood* for Appellants, and *Mr. Finch* and *Mr. Philmer* for Respondents. The argument turned chiefly on the evidence as to handwriting. For the Respondents it was alleged that Lady Purbeck had often promised to pay. MS. Min. 20 Mar. The appeal was dismissed. L. J., XV. 523.]

Annexed:—

(*a*) 27 Feb.—Petition of William Tirrey of London, Merchant, the Respondent. The Appellants had often promised to pay, but they having fallen into misfortune and being many years in prison, Petitioner had desisted from prosecuting his claim. Five years since Duvall recovered an Estate, and as he did not pay, Petitioner sued him. Appellants have delayed him by insisting on Protections, and have brought their Appeal for delay and vexations. Prays they may enter into Recognizance for costs. L. J., XV. 508.

(*b*) 6 March.—Answer of same, to the Appeal. Repeats the above statements at greater length. Duvall pleaded privilege as a Gentleman of the Privy Chamber, but Respondent obtained the permission of E. Dorset, the L. High Chamberlain, to proceed against him. Appellants tried to defeat him by not giving him previously the names of their witnesses. *Signed* William Tirrey. Not countersigned. *Endorsed* as brought in this day.

907. Feb. 19. Towne *v.* Thompson.—Petition and Appeal of John Towne, Gent. William Thompson being owner of the Manor of Boothby, Lincolnshire, worth about 220*l.* a year, was induced by Anthony Thompson, a remote kinsman, to settle it on him, disinheriting his own next heir, but Anthony paying 500*l.* to Appellant, who was a nearer relation than Anthony; and Appellant was, out of this, to pay 100*l.* to William Disney, and 12*l.* a year to Ann Perkins. After William's death, Anthony refused to pay the 500*l.*, alleging a counterclaim of 300*l.* for which he held a bond, and 77*l.* lent by him to

1694–5. — No. 907. William, and obtained, after a Trial at Law, a Decree in Chancery, against which Petitioner appeals on the ground that Testator intended this 500*l.* for his near relations, who were prejudiced by his Estate going to Anthony, and his debt to Anthony should not be set off against it. *Signed* John Towne. *Countersigned* Tho. Powys, Cha. Bawdes. [Read this day; L. J., XV. 499. On the Hearing on 11 March. *Mr. Finch* and *Sir Tho: Powys* appeared for Appellant, and *Sir Barth. Shore* and *Mr. Solicitor* for Respondent. After a point as to the intention of the Testator had been waived, it was argued for the Appellant that Respondent could make full use of his Bond for 300*l.* which was against a third person, and for the Respondent that he, as a creditor, had a prior claim to legatees. It does not lie in any man's power to injure his creditors. The Appeal was dismissed. MS. Min. 11 March. L. J., XV. 516.]

Annexed,

(*a*) 1 March. Answer of Anthony Thompson, Gent. The Estate was worth 200*l.* a year, charged with a rent-charge of 120*l.* a year. Respondent was Testator's next heir of the same name. Appellant's allegation, that Testator and Respondent *had agreed* that the Bond for the 300*l.* should be sunk, was *tried at law*, and a verdict was given against him. *Signed* Anthony Thompson. *Countersigned* Hen. Poley. *Endorsed* as brought in this day.

908. Feb. 19. Coin (Clipping and Defacing).—(State of the Nation.)—An Account of what Bullion or Silver hath been exported between Michaelmas 1693 and Michaelmas 1694, and in whose names it was so exported, as appears by H. M. Books kept in the Searchers Office in the Custom House, London. The total amounts to ——— Gold, per oz., 7262, Pieces of Eight 619,257, and Silver, per oz. 1,703,089. *Signed* Rob^{t} W^{m}son. *Endorsed* as brought in this day from the Custom House. Ordered by the Select Committee on 15 Feb. (Com. Book. *See* Note below.) [In debate on the State of the Nation on 25 Jan., the fourth subject mentioned was "the money, and the King's recommendation to the Parliament to consider of the easiest ways to prevent its transportation at the least charge" (MS. Min. 25 Jan.). On 5 Feb., *Moved* that a Committee be appointed to consider, receive and propose of expedients to prevent the clipping and defacing and exporting money for the future; the King's coin. *Moved* that a day be appointed to consider of this business in a Committee of the whole House. *Ordered* to go into Committee to-morrow, and officers of the Mint and of the Goldsmiths Company to attend, as in L. J., XV. 479 (MS. Min. 5 Feb.)—On 6 Feb. the officers of the Mint and the Master and Wardens of the Goldsmiths Company were called in. *Mr. Neale* says, in obedience to the commands of the House, they have put something (L. J., XV. 480) in writing, and delivered it. *The Goldsmiths Company* offered something (L. J., *ib.*) in writing, and delivered it. *Mr. Neale.* We have not put the prejudice the Nation has suffered by the clipping and debasing money. *Goldsmiths:* 15,000*l.* or 20,000*l.* hath been lost or counterfeited. *Asked* how they make the computation of this loss. *Answer.* We make a computation from the whole nation; 6 millions is the current coin, and two of it debased. House went into Committee, L. Godolphin in the Chair. The paper delivered by the Officers of the Mint was read, and the paper from the Goldsmiths read also. *Moved* to call in the Officers of the Mint and Goldsmiths again, and to be asked how long this clipping has been coming upon us and to what degree it may be increased

by this time twelvemonths. The question was asked. *Mr. Neale:* We believe the greatest inconvenience has been this last 7 years. The greatest in 3 or 4 years; 7,000*l.* or 8,000*l.* maybe in a year more. *Sir Js. Child:* The money was 28lb. or 29lb. per bag, and every year since it has lessened, to 16lb, but half what it used to be. There is so much counterfeited and clipped, that they get 50 per cent. The last year cannot be less than 50,000*l.* It is generally all over England. *Mr. Neale:* Clipping, I believe, is most in London, by reason of flatting mills here. *Proposed*, to consider of heads for a Bill. *Moved* to have a copy of the Bill rejected some time since (No. 833). The paper from the Goldsmiths was read. 1st paragraph read. *L. Keeper:* There is no law already only for clipping the current coin. *Agreed* this be a Head to refer to the Committee to consider of. Clauses 2 to 9 read and agreed. Mr. Neale's Paper read. The last paragraph agreed to be referred. *Moved* that it be made capital to import counterfeit money. To consider way to prevent the exportation of money. Report and Order made as in L. J., XV. 480, and Select Committee appointed (MS. Min. 6 Feb.)—On 8 Feb. the Select Committee ordered that the L. Ch. Justice might have the Heads delivered by the officers of the Mint and Goldsmiths. (Com. Book).—On 15 Feb., in Select Committee, the *L. Ch. Justice* proposes (1) That all silver be melted in open shops, and flat-mills used instead of hammers; (2) That no flatting mills be used but in Goldsmiths Hall; (3) That no plate be melted into ingots in the country, nor sent thence to London; (4) That all ingots of silver transported, or laid on shipboard to be transported, be marked at Goldsmiths Hall; (5) That clipping counterfeit money be under the same penalty as clipping lawful money; (6) That if any person shall sell or furnish broad money to clip, or shall knowingly have clippings, he shall suffer; (7) That no Broger or Broker sell silver but publicly in Goldsmiths' shops; (8) That there be power to search upon oath of reasonable suspicion. *Daniel Pecke*, a refiner, offers a Paper to prevent exportation of silver, which is read and given to the L. Ch. Justice. The L. Ch. Justice is directed to draw a Bill on those Heads, or what other shall occur to him. *Ordered* that the Commissioners of the Customs do on Tuesday next send their Lordships an account in writing of what bullion or silver hath been exported between Michaelmas 1693 and Michaelmas 1694, and in whose names it was so exported. (Com. Book, 15 Feb.)—On 19 Feb. L. C. J. Holt offers a Bill to the Select Committee, but takes it back to fill up the blanks in it. (Com. Book, 19 Feb.)—On 21 Feb. L. Ch. Justice offers a Draft of a Bill, which is read, and the Clerk to transcribe it in order to be offered to the House (Com. Book, 21 Feb.). The Bill was reported to the House on 22 Feb. as one prepared by the Select Committee (L. J., XV. 503). For further proceedings, *see* No. 912.] 1694–5. — No. 908.

909. Feb. 20.—Howland's Estate Act.—Amended Draft of an Act to enable Elizabeth Howland, the widow of John Howland Esq., deceased, to settle lands upon the marriage of his sole daughter and heir, and for settling lands upon the said widow Howland for her life in lieu of dower, and for indemnifying Sir Josias Child and the said widow Howland, grandfather and mother of the said heir, in disposing of the personal estate belonging to her upon her preferment in marriage, she being under age of 21 years. The amendments made in Lords' Select Committee were purely verbal ones. The Commons agreed to the Bill without Amendment. [Read 1ª this day. Royal Assent, 22 April. L. J., XV. 500, 562. 7 Will. III. c. 38 in Long Calendar. *See also* Com. Book, 25 Feb., *comp.* No. 905.]

1694-5. — No. 910.

910. Feb. 21.—Salt Water Act.—Amended Draft of an Act for making Salt Water fresh. Mr. Walcot's name appears in the endorsement of the Bill but is crossed out in the Title inside. The Lords' Amendments were to fill up the blanks for the duration of the patent and the commencement of the Act and to leave out the forfeiture of a sum of money (blank) for each day of infringement of the Patent. There is also a drafting amendment. The Commons' Amendment was to reinstate the money forfeiture struck out by Lords, fixing it at *5l.* *See also* No. 825. [Read 1ª this day. Royal Assent, 22 April following. L. J., XV. 502, 562. 7 Will. III., c. 40, in Long Calendar. In the Select Committee on 12 March, Mr. Fitzgerald desired to be heard against the Bill, but had no Counsel; but he thought he could speak to it, but was not willing to depend on himself. Col. Fitzgerald offered a printed letter of Mr. Boyle's to be read, which Sir Thomas Powys opposed. Col. Fitzgerald desired he might be heard by Counsel. On 13 March, Col. Walcot attended with Counsel, but no Counsel attended for Col. Fitzgerald. Letters from the latter to E. Stamford and the Clerk of the Parliaments were read, acquainting them that since his partners will not be at any further charge, he would not trouble the Committee; but if his few years in his patent might be saved to him, it would be a kindness. The Letters Patent were then perused; a Certificate of L. Chandos having kept this water 7 years sweet, was read. A Certificate of John Shish was read, of the usefulness of the engine. Then the Amendments referred to above were made. Mr. Bridgeman was present, and quitted any interest he might have. The Certificates were given back to Mr. Walcot. Com. Book, March 6, 12, 13.]

911. Feb. 21. Creditors' Relief Bill.—Amended* Draft of an Act for Relief of Creditors. Whereas the majority in value of creditors, their executors, administrators, guardians, and trustees are oftentimes willing to make an agreement or composition with their insolvent debtors, but through the incapacity of some who cannot, and the misapprehension of others who will not consent thereto, no agreement or composition can be made, whereby debtors become desperate, and either transport themselves with their effects beyond the seas, or consume the same in prisons or secret places without making any satisfaction to their creditors, or at least a great part of the estate is spent in suits of law. For remedy whereof, be it enacted, that it shall and may be lawful for parts or more in value of creditors, their executors, administrators, guardians and trustees, to make what agreement or composition they shall think fit and reasonable with their insolvent debtors, now bankrupt or absconding, or in prison for debt, and that every such agreement or composition being put in writing, and subscribed and sealed by the said majority in value of creditors, their executors, administrators, guardians and trustees or any other person or persons by them thereunto lawfully authorised, shall be binding to and conclude all the creditors to all intents and purposes, the inability or dissent of any of them or of their guardians or trustees notwithstanding. Provided always, and be it further enacted, that it shall and may be lawful for any creditor not subscribing and sealing such agreement or composition within *one year* [days] after notice given in writing to him or her by the debtor, that such agreement or composition is made.

* Only one Amendment was made in C. W. H., on 29 March (MS. Min.), viz., the substitution of "one year" for "[blank] days."

and what are the terms and conditions thereof, to appeal from the same by petition to the Lord Chancellor, Lord Keeper, or Commissioners of the Great Seal, for the time being, who is, and are hereby authorized in a summary way to hear and determine the matter of such appeal, and to alter, quash, or confirm such agreement or composition as he or they shall think fit, according to equity and good conscience, and the judgment, order, or decree so pronounced or declared shall be binding to all the creditors as aforesaid. And be it further enacted, that every creditor, executor, administrator, guardian or trustee, by or for whom such agreement or composition shall be subscribed and sealed, as aforesaid, shall, if residing in England, or in the dominion of Wales, and required by any two or more of the creditors, make oath before a Master in Chancery, ordinary or extraordinary, and if residing beyond the sea and required as aforesaid, make oath before some person there authorised to administer oaths, upon what account or consideration the debt by him or her claimed from the debtor became due, to the best of his or her knowledge, and that neither he or she, or any other person or persons on his or her behalf, or by or with his or her direction, privity, or consent, have or hath directly or indirectly received or is to have or receive any greater or other satisfaction for or in consideration of the said debt, than what is comprised and expressed in the said agreement or composition, and in case any creditor, executor, administrator, guardian or trustee shall refuse to make such oath, his or her subscription to such agreement or composition shall be void and of no effect. And be it further enacted that no agreement or composition to be made by virtue of this Act shall be binding to or conclude any creditor, until the debtor (if required by part or more in value of all his or her creditors) hath delivered to such person or persons whom the creditors so requiring shall appoint, a particular account in writing setting forth to the best of his or her knowledge all the real and personal estate belonging to him or her, and to which he or she, or any other person or persons on his or her behalf, was or were interested in, or entitled to at the time of the date of such agreement or composition, and where the said estate and all deeds, evidences, writings, books of accounts and papers relating thereto are, and what debts were bonâ fide due and owing from him or her at the time of his or her bankruptcy, absconding or imprisonment, and upon what account or consideration the same became due, and what he or she, or any other person or persons, have or hath at any time directly or indirectly paid, delivered, secured or released, for or in consideration of the said debts, or any of them, and shall also, if required, as aforesaid, make oath before a master in Chancery, ordinary or extraordinary, that to the best of his or her knowledge the contents of the aforesaid account is true, and that neither he or she, or any other person or persons on his or her behalf, or by or with his or her direction, privity or consent, have or hath at any time directly or indirectly disposed of any part of his or her estate, or altered, defaced, obliterated or torn any deeds, evidences, writings, books of accounts or papers concerning the same or any of his or her debts, with intent to defraud his or her creditors of their equal share or proportion thereof, other than what he or she shall then discover and declare; and if it shall afterwards appear that the debtor hath wilfully or wittingly concealed any part of his or her estate to the value of , with intent to defraud his or her creditors of the same contrary to the true intent and meaning of this Act, or if the

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debtor shall not perform the covenants or conditions of the agreement or composition which shall be made with him or her, as aforesaid, then and in every such case, such debtor shall lose the benefit of such agreement or composition, and be subject to the forfeitures and penalties contained in all or any of the laws made concerning bankrupts for perjury committed in prejudice of creditors. And be it further enacted that after any debtor shall have discovered his or her estate upon oath and delivered an account thereof as aforesaid, the majority in value of all the creditors their executors, administrators, guardians and trustees shall be at liberty by the space of days, after delivery of the said account, to make their election, whether they will abide by the composition agreed on or waive the same, and take the whole real and personal estate of such debtor into their own hands to dispose thereof for the equal benefit of themselves and the rest of the creditors, so as satisfaction be given to the debtor for what shall be allowed by the agreement for his or her subsistance, provided and be it further enacted, that if the said majority of creditors shall waive the composition made with the debtor and choose to take his or her estate, it shall and may be lawful for the same creditors *their executors*, administrators, guardians and trustees to assign and order the real and personal estate of the debtor to such person or persons as they shall think fit, in such manner as the Commissioners of Bankrupt are empowered to make of any bankrupt's estate by any laws made concerning bankrupts, and that the assignees of such creditors shall have the same title and property therein and shall and may sue for and recover the same in their own names as the assignees of the Commissioners of Bankrupt have in and may sue for any bankrupt's estate. And be it further enacted, that from and after every such agreement or composition and the performance or waiver thereof as abovesaid, every such debtor so performing his or her composition, or delivering his or her whole real and personal estate into the hands of his or her creditors, shall be absolutely discharged and released of and from all and every such debt and debts so compounded and agreed for, and if any debtor with whom an agreement or composition shall be made by *virtue of* this Act, or the heirs, executors or administrators of such debtor shall afterwards be arrested or detained in prison at the suit of any of his or her creditors their executors, administrators, assigns, guardians, or trustees, contrary to the true intent and meaning of such agreement or composition, every such person so arrested or detained in prison, shall and may plead the general issue, and give this present Act and such agreement or composition in evidence, and if the plaintiff shall become non-suit, enter a retraxit, or suffer any discontinuance, or if a verdict shall pass for the defendant, the defendant shall have his or her damages and costs of suit. And be it further enacted, that it shall and may be lawful for the assignees of the estate of any bankrupt, at any time to deliver or transfer any part of such bankrupt's estate which hath been or shall be assigned unto them to any other person or persons whom the majority in value of all the creditors their executors, administrators, guardians and trustees or the majority of such of them as shall have sought relief by the commission against such bankrupt, shall require and appoint the same to be delivered or transferred, and from and after such delivery or transferring, the said assignees shall be discharged of the estate so delivered or transferred, and that such person or persons to whom such transfer shall be made shall and may sue for and recover the same in his or their own name or names. And it shall also be lawful for such assignees with consent of any such majority in value of

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creditors, their executors, administrators, guardians and trustees, to make what agreement or composition they shall think fit and reasonable for any debt due to the said bankrupt, which they shall conceive to be desperate. And upon performance of such agreement or composition, to discharge the person or persons from whom the same is or shall be due, and the said assignees shall be chargeable or accountable in respect thereof for no more than what they shall actually receive for the same. And be it further enacted, that where any person is or shall be both a debtor and creditor of and to any bankrupt, by reason of dealings, or any open or unsettled account between them before the time of the bankruptcy, such person shall be accounted debtor or creditor of or to such bankrupt, for no more than what shall appear due by the balance of an account to be made up of their respective demands to the time of the bankruptcy. Provided always, and lastly, it is enacted that this Act shall not extend, or be construed to extend, in any sort, to prejudice, make void or impeach the securities of any person or persons by mortgage, or any debt or debts by judgment, statute, extent, recognizance, or otherwise, nor any assignment or assignments, dividend or dividends, already made, of, upon or concerning the estate of any bankrupt or bankrupts or any part thereof, nor any sentence, order or decree of or concerning the said bankrupt or bankrupts or his or their estate or any part thereof, nor of any money or debt or debts whatsoever already received, divided, levied or recovered, or to be received, divided, levied, or recovered, by virtue of, or upon any such mortgage, judgment, statute, extent, recognizance, assignment, dividend, sentence, order or decree; but that all such persons shall and may enjoy the benefit of such mortgage, debt, judgment, statute, recognizance, extent, execution, assignment, dividend, sentence, order or decree, as if this Act had never been made, anything herein contained to the contrary in any wise notwithstanding. *Cp.* Nos. **815, 882.** [Read 1ª this day (L. J., XV. 502.)—On 29 March, in C. W. H., E. Bridgewater in the Chair, the Bill was read through; the House was resumed, adjourned during pleasure, and put into a Committee again. Title and preamble read and postponed. First enacting Clause read. House resumed, and adjourned during pleasure. First enacting Clause postponed. Next Clause read and an Amendment noted above, made. Third Clause agreed. Progress reported. (MS. Min. 29 March 1695.)—C. W. H. was not resumed; but on 20 April, on reading a Petition from the Merchants of London (Annex *a* below), the Bill was committed to the Lords present. (MS. Min. 20 Ap. 1695.) No further proceedings. The Select Committee does not appear to have met.]

Annexed:—

(*a*) 20 April 1695. Petition of several Merchants and Traders in London, on behalf of themselves and others. Petitioners and others, being creditors of several persons who have withdrawn themselves with their effects into remote parts or secret places, have just cause to fear, in case the Bill pass not this Session, that before the next Session divers of the said debtors, who offer considerable compositions, will not be able, in all probability, to pay one half of what is now offered. And forasmuch as, by reason of the many weighty business now before the House, the Session may end before the Committee of the Whole House has leisure to go through the Bill, Petitioners pray their Lordships to take the said Bill into their speedy consideration.* *Bears*

* The Prayer stood originally, That a Select Committee may be appointed to consider thereof.

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—

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22 *signatures*. *Endorsed*, Read 20 April 1695 and the Bill recommitted to a Select Committee. [*See also* MS. Min. of date, and Note above. No entry in L. J.]

912. Feb. 22. Coin (Counterfeiting and Clipping) Act, 6 & 7 W. & M. c. 17.—Amended* Draft of an Act to prevent counterfeiting and clipping the Coin of this kingdom. Preamble same as in Act. Clauses I. &c. :—Be it therefore enacted, &c., that from and after *the first day of May which shall be in the year of our Lord* 1695, if any person or persons whatsoever shall, *at any one time or payment*, exchange† broad money or money unclipped or not diminished, *or gold above the sum or value of thirty shillings*, for money that is clipped or diminished, or clipped money or money diminished for broad money or money unclipped or not diminished, *or for gold*, or shall impair, diminish, or clip any counterfeit coin, it shall be taken, deemed and adjudged High Treason, and the offender or offenders therein, his and their aiders, abettors, counsellors and assisters shall be deemed and adjudged Traitors, and being thereof convicted shall suffer pains of death as in case of High Treason, and shall lose and *forfeit to the* King's Majesty his and their goods and chattels, and also shall lose and forfeit all their lands and tenements and hereditaments during his or their natural life or lives only. Provided nevertheless that no such Attainder shall work any corruption of blood to any of the heir or heirs of such offender. And be it further enacted, by the Authority aforesaid, That no goldsmith whatsoever from and after the said *first day of May*, shall buy any bullion silver of any person or persons other than the merchant who is or shall be the importer thereof into this realm, unless in the open shop of such goldsmith, nor no person other than such merchant shall sell any silver to any goldsmith unless in the open shop of such goldsmith, upon pain that such buyer and seller *respectively* shall forfeit the double value of such silver so sold, and shall suffer imprisonment for the space of six months without bail or mainprize. And be it further enacted That, from and after the said *first day of May*, no person or persons whatsoever shall melt any gold or silver, nor shall erect or keep any windholes or blasts or any furnaces, places or utensils for melting of gold or silver except in his or their open shops ; and if any person or persons shall presume to melt any gold or silver or shall erect or keep any windholes, blasts or furnaces, places or utensils for melting of gold or silver in any other place than in in his or their open shop, he or they shall [forfeit the sum of for every such windhole, blast or furnace, place or utensils for melting so erected, and the sum of for every week that such windhole, blasts or furnaces, places or utensils for melting as aforesaid shall continue] *suffer imprisonment for the space of six months without bail or mainprize*. And for the better preventing the said offence of counterfeiting the current coin of this kingdom, Be it further enacted That, from and after the said *first day of May*, no person whatsoever shall erect or keep any mill for flatting or fashioning gold or silver, commonly called a flatting mill (except mills in His Majesty's Mint, and also except small handmills such as are commonly used by the gold and silver wire drawers for making and drawing fine wire for thread and lace, and also such mills that are used by the Patentees for making of brass work, and also except such as are hereby directed to be erected at Goldsmiths Hall) upon pain that every person herein offending shall [forfeit the sum of pounds for every flatting mill which

* Additions in C. W. H. are printed in italics, omissions in square brackets.

† From here down to the mark ¶ (where what became § ii of the Act begins), left out by the Commons, is contained in Annex *c*.

he shall erect and the sum of for every week that such flatting mill shall continue] *suffer imprisonment for the space of six months without bail or mainprize.* Provided always and be it enacted by the authority aforesaid that the Wardens and Assistants of the Goldsmiths of the City of London shall, before the said *first day of May,* cause and procure to be erected at their Hall, situate in the said City, four flatting mills to which it shall and may be lawful to and for all and every goldsmiths and goldsmith within the City of London and weekly Bills of Mortality to resort to and use, as occasion shall serve, paying a reasonable price and rate for the same. *And be it further enacted by the Authority aforesaid That no smith or other person or persons whatsoever do or shall make any tool or tools of steel to be engraven upon, or any engine or presses to make impressions upon metal for any person or persons (other than for the Officers of His Majesty's Mint) without first acquainting therewith two or more of the next Justices of the Peace of the County, City or place where such smith or other person employed to make such tool or tools, engine or press doth inhabit, and also one or more of the sworn Officers of the said Mint; at which time the said smith or other person employed to make the said tool or tools or other the instruments aforesaid or any of them shall give and deliver unto the said Justices and Officer or Officers of the Mint a writing containing the name, surname and place of abode of the person to whose use such tool or tools or any the instruments aforesaid is or are desired to be made, and shall procure a Licence in writing under the hands of the said Justices of the Peace and Officer or Officers of the Mint before the said smith or other person shall take upon him to make or fashion the same, upon pain that the said smith or other person herein offending shall, for every such offence, suffer imprisonment for the space of six months without bail or mainprize. And in case any person or persons for whose use such tool or tools, engine or press, or any of them, shall be made, shall make use of the same or any or either of them without such Licence first had and obtained as aforesaid, such person so herein offending shall, for every offence committed in that behalf suffer imprisonment as aforesaid. And be it also enacted by the Authority aforesaid That no person or persons whatsoever, other than such as belong or shall belong to His Majesty's Mint, shall have or keep in his, her or their house or houses, lodging or lodgings or elsewhere any engine, cutter, or press of iron or brass, or any stamp, puncheons or dies to be engraven upon, shears to clip metal, flasks or spands for casting of metal (except such tradesmen or artificers who of necessity are to use the same in their honest trades and lawful vocations); provided nevertheless that all such tradesmen or artificers that necessarily must use the same in their trades or vocations respectively shall from time to time enter or cause to be entered their names, surnames, trades, occupations, and places of abode respectively and the kinds and numbers of such engines, instruments and utensils hereinbefore mentioned, in a Book of Registry to be bought by the Churchwardens of the parish or parishes where such tradesman or artificer doth respectively dwell, reside or inhabit, and to be kept by the Minister, Ministers and Churchwardens for the time being of such parish or parishes, and that every such artificer or tradesman shall procure a certificate under the hands of the Minister, Churchwardens and next Justice of the Peace, testifying that the tradesman or artificer procuring such Certificate is of honest conversation and*

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reputation, and of the trade and profession he shall so declare himself to be, which certificate shall be enrolled amongst the Records of the Court of General Quarter Sessions of the Peace of the County, City or place where such tradesman or artificer at the time of such Certificate shall dwell, reside or inhabit, for which Certificate, entry and enrolment no fee or reward shall be demanded, received or taken; and in case any person or persons (except before excepted) shall from and after the said first day of May have or keep in his, her or their house or houses, lodging or lodgings or elsewhere, any such engines, instruments or utensils as aforesaid, and also in case any tradesman or artificer who necessarily in the way of his trade or calling must and hath been wont and accustomed to make use thereof, shall from the time last mentioned have, keep or use the same or any of them without such entry in the Book of Registry and before such Certificate first procured in manner as aforesaid, that then in every such case the offender or offenders shall suffer imprisonment as aforesaid.¶ Then follows § ii of the Act, the penalty being imprisonment as aforesaid instead of that in the Act.* Then § iii of the Act, with the word "willingly" instead of "*knowingly*," and with the penalty of imprisonment as aforesaid instead of that in the Act. Then the Bill goes on as follows:—And be it further enacted by the Authority aforesaid That if any person whatsoever living in any town or place without the compass of the Weekly Bills of Mortality shall send to the City of London or other place within the compass of the Weekly Bills of Mortality any bullion silver melted into ingots, and if any person whatsoever shall ship or cause to be shipped or put on board any ship or vessel any bullion silver (except foreign bullion) every such person offending therein shall for every such offence [forfeit the sum of] *suffer imprisonment as aforesaid.*—Then follow §§ iv, v, vi, and vii of the Act, the words "cupboard or cabinet" in l. 9 of § vii having been substituted in Lords' C. W. H. for "or other suchlike thing," and the penalty at the end of the section for the words "incur the forfeiture of." [Reported this day from the Select Committee by E. Bridgewater, the Chairman, and read 1ª (L. J., XV. 503). For proceedings which led to the presentation of this Bill see No. 908. On 2 March, on the Order for the House to be in Committee on the Bill on the 7th, moved to consider of the most effectual ways to prevent the exportation of money by supplying the Army abroad and at home with the Manufactures of this kingdom. *Ordered* that the Committee to prevent clipping be revived† (MS. Min. 2 March. L. J., XV. 511). On 7 March, in C. W. H., E. Bridgewater chairman, on consideration of the first enacting Clause, a Paper, offered to be part of the Bill, was read, the date was fixed at first as the last day of March and altered to 1st May, the Clause was postponed, and Mr. Justice Nevill and Mr. Justice Powell were directed to draw a Clause upon the debate. (MS. Min. 7 March. L. J., XV. 513.) On 11 March, in C. W. H., same chairman, the Judges delivered their alterations made by them to the Bill pursuant to the order of the House. The Clauses drawn up by them were read, and the amendments noted above were made in the first four Clauses (MS. Min. 11 March). On 14 March, in C. W. H., same chairman, a Clause drawn by the Judges was offered and read and inserted (Annex (*b*)

* This Clause was added in Lords C. W. H. on 14 March, and is included in Annex (*b*) below.

† No proceedings of the revived Select Committee are recorded, except adjournments from time to time.

below) and the rest of the Amendments noted above were made. (MS. Min. 14 March). The Commons on April 22 and 24 (C. J., XI. 312, 316) struck out all the parts of the Bill set out above, and substituted the words of the Act and added § viii to end of Act. The Bill received the Royal Assent on 3 May. L. J., XV. 589.]

Annexed :—

(*a*) March. Lords' amendments in C. W. H. on 7, 11, and 14 March (MS. Min. of dates).

(*b*) 14 March. Clauses offered by the Judges Nevill and Powell and inserted this day. It comprises the long Clause set out above in italics and that which became § ii of the Act. (MS. Min. 14 March).

(*c*) 27 April 1695. Part of Engrossed Bill, struck out by the Commons on 22 April (C. J., XI. 312) and returned with the amended Bill this day (L. J., XV. 572). It consists of Skins 2, 3, 4, and part of 5, and comprises virtually all the enacting Clauses of the Bill down to that which became § ii of the Act.

913. Feb. 23.—Bishop *v.* Rothwell.—Petition and appeal of Sir Cecil Bishopp, Bart., Cecil Bishopp, junior, and John Gratwick, Esq. The Bishops of Chichester are seized of the Rectory, Parsonage and Great Tithes of corn and hay of Henfield parish, Sussex, and the respective bishops, ever since the 25 of Henry VIII. have leased them to the Appellant Bishopp and his ancestors. One Mr. Goldsmith was collated to the vicarage in 1632, and having married a servant of Lady Bishopp, the wife of Sir Thomas Bishopp, lived in his family, and Sir Thomas allowed him to take up the Great Tithes of a farm called Eaton's Farm in Henfield, which belonged to the Appellant Gratwick, and allowed him also one quarter of wheat, the running of a gelding or mare in Henfield Park and sometimes some hay, as a bounty, during his life. Goldsmith's successor, Mr. Allen, was allowed the same tithes by courtesy. On Allen's death, Mr. Bilby was collated, and demanded the tithe, the wheat, the grassing of a horse and the hay, as his right; but Appellant's great uncle, Henry Bishopp, Esq., the then tenant, refused it, and it was not paid during Bilby's continuance as Vicar. Then the present Respondent was collated 8 years since, and obtained a Decree in the Exchequer without a Trial at Law, in spite of proof of the ancient endowments of the vicarage in 1209, and of several ancient Terriers which were produced by Appellant, and the Decree declared that the tithe did not belong to the Bishop of Chichester or to his farmers and lessees, though the bishop was not made a party to the suit. Appeal against the Decree. *Signed* by the three Appellants. *Countersigned* Wi: Williams, R. Bretland. L. J., XV. 504. [At the hearing on 14 March *Sir Tho: Powys* and *Sir Barth: Shore* were heard for Appellants, and *Mr. Northey* and *Mr. Phipps* for Respondent, for whom it was contended that there had been a constant enjoyment. The Appeal was dismissed with 30*l.* costs. MS. Min. 14 March.]

Annexed :—

(*a*) 7 March. Answer of John Rothwell, Clerk. The Appellants brought a Cross Bill in Exchequer which was dismissed. The Decree ordered Appellants Bishopp to pay Respondent the tithes of the lands of Catlands and Hollands for the time Henry and Edward Bishopp had them in their possession. The Decree was just and did not in any way prejudice the inheritance of the Bishops of Chichester. *Countersigned* Ed: Northey. *Endorsed* as brought in this day.

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914. Feb. 23. Stratford *v.* Jones.—Petition and appeal of Edward Stratford, Esq. Edmond Jones, the Respondent, in 1688, gave Petitioner a Bond for 260*l.* to secure a debt of 130*l.*, payable in six months with Irish Interest, and a Warrant of Attorney to confess Judgment. The debt not being paid, Petitioner caused Judgment to be entered and sued forth an *Elegit*, but, by reason of the troubles of the times, forbore execution. Edmond Jones then left the country, leaving a stock of sheep and cattle to be managed by his brother Matthew Jones and his kinsman John Brevitt as his trustees. The latter fearing the stock would be seized by King James' Commissioners for seizing the goods of Absentees, or would be stolen by Rapparees, leaving the debt standing, agreed with Appellant to sell him as much of it as would satisfy his debt, amounting then to 148*l.* 17*s.* 4*d.*; whereupon Appellant renewed the *Elegit* and the Sheriff of the County of Catharlagh impannelled a jury who found Jones was possessed of a large stock of sheep and cattle. Appellant offered to abate 20*l.* if a purchaser could be found to give him ready money, but by reason of the troubles no one was found to take the risk, and sworn appraisers awarded Appellant 985 sheep, 420 lambs and five bullocks in satisfaction of his 148*l.*, which was rather more than that number would fetch at that time; and with the approval of the trustees Appellant drove them off to his own farms and mixed them up with his own stock, delivering up the Bond, and agreeing to acknowledge satisfaction on the Judgment when required. Two years after, when that part of the country was pacified, Respondent returned, and under colour of some Replevins and a Warrant, but without Trial of the property, seized and drove away 517 ewes, 13 rams and 500 lambs from one of Appellant's farms. The Appellant took proceedings, but the Court of Chancery in Ireland declared that in executing the *Elegit* there was Trust reposed in the Appellant for the Respondent, and ordered Appellant to account for the produce of Respondent's stock, which he could not do, as he had mixed it up with his own. On a rehearing the Decree was confirmed with some variations, and Appellant appeals on the grounds, among others, of his inability to comply with it, and that he had been refused a Trial at Law as to where there was a Trust, and as to value of Respondent's stock at the time; and he prays for stay of proceedings. *Countersigned* Tho: Powys, Bartho: Shore. L. J., XV. 504. [At the hearing on 9 April 1695 *Sir Tho: Powys* and *Sir Barth: Shore* were heard for Appellant and *Mr. Solicitor* and *Mr. Finch* for Respondent. The Appeal was dismissed the following day. MS. Min. April 9, 10. L. J., XV. 533, 535.]

Annexed:—

(*a*) 27 March 1695. Petition of Edmond Jones for ten days' further time to answer. *Endorsed* as read this day. L. J. XV. 525.

Annexed:—

(*b*) 1 April 1695. Answer of Edmond Jones. When the Bond was given, Appellant agreed to send 42 bullocks to graze on Respondent's farms, and the grazing came to 33*l.* 12*s.* The Earl of Tyrconnell having placed a company of Irish new raised soldiers in Respondent's house, he escaped to England to save his life, with less than 25*l.* to support himself and a family of nine. When the arrangement was made with his brother Appellant was in favour with the then Government. He took 1,050 sheep, 35 being rams, over 420 lambs, and 5 bullocks belonging to Respondent, which were worth over 500*l.*, and

within a month he sold the wool for 110*l.*, and the bullocks for 15*l.*, which, together with the 33*l.* 12*s.* for grazing, more than covered the debt. Appellant came with 20 dragoons to recover the stock Respondent had seized on his Replevin, but Respondent successfully resisted him. The Decree was just, and made every allowance to Appellant for his care of the stock and for loss from Rapparees. *Countersigned* Wm. Dawson. *Endorsed* as brought in this day.

915. Feb. 25. D. Ormond's Estate Bill.—Draft of an Act for vesting certain Manors, Lands, and Tenements belonging to James, Duke of Ormond, in Ireland, in Trustees, to be sold, and enabling the said Duke to make leases for raising of money to discharge the debts and incumbrances of his grandfather, the late Duke of Ormond, charged on his Estate in Ireland, and likewise for raising portions for the younger daughters the now Duke shall happen to have, and securing the jointure of the present Duchess.

The Bill provides as follows, viz. :—

James, Duke of Ormond, and Mary his wife, Lawrence, Earl of Rochester, Edward Lord Viscount Cornebury, Sir Robert Southwell, Knight, Sir John Mead, Knight, and James Hamilton Esquire, submit, that by deeds of Lease and Release of 5 & 6 July 1683, (of which the Release is tripartite) between James, late Duke of Ormond, and Elizabeth, his late Duchess, of the one part, James, now Duke of Ormond, of the second part, and Lawrence, Earl of Rochester, Edward, Viscount Cornebury, Sir John Percival (since deceased) Sir Robert Southwell, Sir John Meade, and James Hamilton, of the third part, the late Duke granted certain lands to the third parties in trust for the present Duke for life, with remainder to his first and other sons successively, and the heirs male of their bodies, with divers other remainders.

The present Duke of Ormond has no issue male, and has mortgaged his Irish estate for large sums of money, and charged his whole estate with great debts, which, if not paid off, the accumulating interest thereupon will swallow up his whole estate unless he is enabled to discharge his debts by the sale of a considerable portion of his estate. He, his wife, and the trustees therefore pray that all the manors, lands, etc., mentioned in the tripartite deed, being in the Cities and Counties of the Cities of Dublin and Waterford, and Counties of Dublin, Kildare, Meath, Catherlogh, Wexford, Waterford, Limerick, Kerry, and Galway (excepting only the Prize Wines or Butlerage, his towns and lands of Carrickbeg, County Waterford, the towns and lands of Rush, Knockandonane, and Ballydrenane, in the County of Dublin, the several Chieferies in the said County belonging to the Duke, and also a chief rent issuing out of the Barony of Oughtereny alias Skeathyoughtereny, in County Kildare, in the said deed mentioned) may be vested in the Earl of Rochester, the Hon. Sir Stephen Fox, Knt., one of the Commissioners for executing the Office of Lord High Treasurer of England, and Sir Robert Southwell, upon trust, to lease the same, or sell such parts thereof, as will produce an income not exceeding 3,000*l.* per annum, for payment of the debts contracted by the late Duke of Ormond, and the other charges on the Estate; anything remaining unsold after such payment, to be settled as directed by the tripartite deed.

In case the proceeds of such sale are insufficient to discharge his debts, the Bill enables the present Duke to make new leases for lives, or years, of the rest of his estate; and to take and receive fines for

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remitting or abating a third of the yearly rents thereof, during his lifetime; and in case he dies without male issue enables Charles, Earl of Arran, to do the same. Power is given to insert in such leases an agreement whereby the Duke, and other persons who shall be seized of the several manors, etc., shall for ever, after the making of such leases, at the request of the respective tenants on payment of all rents due and, by way of fine, of one year's rent besides, renew and make a new lease of the respective lands, etc., for life or lives, in possession but not in reversion. This agreement, when once made, binds also any other person who may have a claim to the lands so to be leased.

For the saving of the present Duchess of Ormond's jointure of 2,000*l.* per annum, now settled on lands in the Counties of Tipperary and Kilkenny, it is enacted that in lieu thereof all the manors, towns, lands, etc., belonging to the Duke of Ormond, in the County of Kilkenny, shall be vested in the Right Hon. Charles Somerset, Marquess of Worcester, Lawrence, Earl of Rochester, Sir Stephen Fox and Sir Robert Southwell, for 99 years from the Duke's decease, upon trust, to see that the rents of the leases made on the property are *duly paid*; out of which rents and out of certain other rents derived *from the rest* of the property in trust, they are to pay to the Duchess yearly for life 2,000*l.* in half-yearly payments, to begin immediately after the decease of the present Duke. Provision is also made in case the Duke shall die without issue male, and leaving more than 3 daughters, by which the trustees are to pay to any such daughter on marriage, or attaining the age of 18, 6,000*l.*, to be raised by sale or otherwise, out of the trust property; such daughters to have no claim under the tripartite deed, which only provides for the three eldest daughters.

The trustees are also enjoined to permit all the rest of the rents and profits of the property vested in them, deducting the charges of the trust, to be received and enjoyed by the persons for the time being seized of the freehold of the said manors, etc., in the County of Kilkenny. After the decease of the Duchess, and after payment and satisfaction made of all arrears to her executors, and of the portions for the younger daughters, the trustees shall surrender the property *vested* in them to such person or persons who shall be respectively *seized* of the freehold of the said manors, etc., under the tripartite deed. The Bill concludes with a clause for indemnifying the trustees against any loss, and another for saving the rights of the Crown and public bodies. [Read 1ª this day and not further proceeded with, L. J., XV. 505.]

916. Feb. 26. Amyas *v.* Champante.—Petition and Appeal of Paul Amyas, Gent. Petitioner's father, Theophilus Amyas, Clerk, was seized in fee tail general, or some other good estate of inheritance, of Fleetwood Hall, in Samlesbury, Lancashire, worth over 80*l.* a year, and died in 1672, leaving issue Edward and the Appellant, and two daughters, Dorothy and Mary, since married to Edward Donelan and John Eyres respectively. Edward died shortly after, so the property came to Appellant, an infant of about 5 years. After Appellant's mother's death, Sir John Champante, on pretence of being the next relation, entered upon the premises, conveyed Appellant and his two sisters into Ireland, cut down the timber, and maintained the Appellant in a very mean manner. Sir John then brought a claim for 1,600*l.* against the Estate for maintenance and other debts, and on pretence that Appellant's father had made him Executor and given him power to sell the real Estate, exhibited a Bill in Chancery against the infant Appellant, and prepared Appellant's Answer, collusively with one Weaver, his friend, a stranger to the Appellant, confessing the whole

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matter of fact suggested in the Bill; and he thus obtained a Decree for the sale of the property after an Account had been taken of, among other things, the payment of three legacies under the Will of Dorothy Fleetwood, the expenses of Mrs Myhan, the companion, schooling, &c. Appellant, on coming of age, applied to the Commissioners of the Great Seal for leave to put in another Answer instead of the collusive one, but was refused, and the former Decree was made worse against the Appellant. Under this Decree the sum due to Sir John was found by the Master to be 1,848*l.*, and the profits of the Estate 114*l.* instead of over 1,200*l.*, and no report was made as to any loss by Joseph Bolton and James Ashton, Sir John's receivers. The Estate was sold to Robert Curteis, and Appellant appeals on the above grounds, and that the proper Court was the Court of Chancery of the County Palatine; that the Decree was founded on the collusive Answer; that Appellant's father had no power to direct a sale of the entailed property, and the pretended Will did not justify Sir John's proceedings. Calls Sir John and Curteis as Respondents. *Signed* Paule Amyas. *Countersigned* C. Greenfield, Gilbt. Rigby. L. J., XV. 506. [At the hearing on 2 May, *Sir Tho: Powys* was heard for Appellant: He made his Will, and had four children. He has made us in debt two or three hundred pounds. Sir John Champante says fifteen hundred odd pounds is due to him by his Bill and it is so admitted by our Answer. The Decree goes against him by default, and Sir J. has swept away all the money. *Mr. Dod*, on the same side: Sir John was to be his guardian, and he assigns him one Weaver to be guardian, and he confesses the whole debt due to Sir John. All the Estate is sold, and the money is gone. This, we say, is a practice in Sir John. *Mr. Vernon* heard for Curteis: We are not here charged with anything, therefore we hope to be discharged with costs. No Counsel appeared for Sir John Champante, and Sir John says that he had retained Mr. Solicitor and Mr. Thornhill, and they had promised him to be here. Thornhill was ordered to be attached forthwith (L. J., XV. 587), but the same day it was moved to discharge him, he being busy at the Tower, and he was discharged without fees. MS. Min. 2 May. No further proceedings.]

Annexed:—

(*a*) 26 March 1694–5.—Answer of Sir John Champante, Knt. Appellant several years since, in pursuance of a Decree and Orders of the Court of Chancery, sold the lands in Samlesbury, mentioned in the Appeal, to Robert Curtis. Respondent has not the deeds and papers. Theophilus Amyas, Appellant's father, owing Respondent several hundred pounds upon a Statute Staple, made Respondent executor of his will, with power to sell his lands in Samlesbury; but Respondent, being Receiver General of the Revenue in Ireland, and unacquainted with the will, Appellant's mother took out letters of Administration, and after possessing all the estate, died intestate, leaving nothing to answer what she had embezzled of the personalty. Respondent afterwards, on being informed of the will, sent to England and had it proved, and employed one Joseph Bolton, and after his death, Mr. James Ashton, to look after the estate and three children; and having paid the charges of proving the will, and three legacies of 100*l.* each chargeable on the estate by the will of Mrs. Dorothy Fleetwood, who gave the estate so chargeable to the testator, compounded for 50*l.* each legacy and the marriage portions of the two sisters and for their main-

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tenance and education from 1680, and to the maintenance and education of Appellant, and for binding him apprentice, for which Respondent paid 40*l.*, and other payments, amounting to more than the estate was worth. About 9 years since, when Appellant was nearly 19 years old, Respondent brought a Bill in Chancery to have the estate sold and his debt paid, but before the cause came to a hearing, Appellant reached the age of 21 and prevailed with Respondent to make him a lease of the estate for 3 years at 50*l.* a year, which he never paid, though he received much of the arrears and cut down many trees. The estate being decreed to be sold, Appellant, after contesting the account, brought a Cross Bill to obstruct the sale, but the Court decreed the estate to be sold and conveyed for 1,030*l.* to Robert Curtis, the best purchaser, who has since greatly improved it. Appellant, however, broke the injunction of Curtis in committing waste and has failed to pay the costs ordered by the Court or any of the rent due from him. Respondent never committed any waste, nor was Appellant's answer to the Bill by fraud or contrivance, be being then 19 years of age and fully understanding its contents, and having chosen a guardian assigned by the Court. The Court had full power to make the Decree, though the lands lie in the County Palatine of Lancaster. Appellant's father was tenant in fee, and his will sufficiently empowered the sale of the estate. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent; *Countersigned* by R. Thornhill. *Endorsed* as brought in this day.

(*b*) 4 April 1695. Petition of Appellant. Sir John Champante has answered, but not Curtis. John Lee, of Furnival's Inn, Gent., Appellant's Solicitor, has several documents which are required for the Appeal, and refuses to deliver them, pretending moneys owing to him as Solicitor in the Court of Chancery. Lee has sued Appellant for the same, but delays the trial. Prays for a short day for hearing, and that Lee may be ordered to produce documents in his hands. *Endorsed* as read this day. L. J., XV. 531. [On the Petition being read, *Edward Middleton*, sworn, said: Served Curtis at the Coffee House in Dublin. He said he would take care in it. I stayed there a week after the service. MS. Min. 4 April. *Order* made as in L. J., XV. 531.]

(*c*) 8 April 1695. Petition of Respondent, Sir John Champante. The Estate was worth 50*l.* a year, and was charged with a debt of 900*l.* to Petitioner, due on a Statute Staple, and with several considerable legacies discharged by Petitioner, who, moreover, out of kindness to Appellant and his sisters, his relations, maintained them for many years, and gave them marriage portions, so that the Estate owed Petitioner nearly 2,000*l.*, twice its value. Petitioner let the Estate to Appellant for 50*l.* a year for 3 years, and received not a penny; and Appellant committed so much waste on the premises that Petitioner was obliged to bring a Bill in Chancery to have them sold, and they were sold to Mr. Curtis for 1,030*l.*, Petitioner thus losing nearly 1,000*l.* Curtis, who is in Ireland, has all the documents necessary for Petitioner's defence, and Petitioner does not know whether he has had notice of the Appeal, as he has not answered. Prays the hearing may be put off until he shall have the necessary papers, or until Curtis, who is now solely concerned, shall appear

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and answer. *Endorsed* as read this day. [Read this day. *Mr. Champante*, sworn, said: So soon as we were served with the Order of the House, I wrote to Mr. Curtis and desired the writings or papers, and I have received no writings. We have received no papers, though wrote two or three times to him. All the writings he had delivered to his Counsel. I suppose he hath them. He was told he must attend to-morrow and bring the letter from Mr. Curtis with him. (MS. Min. 8 April. No entry in L. J.) On 9 April Mr. Champante attended accordingly, and informed the House that, upon his strictest search among his papers, he could not find the letter and knows not where to find it. MS. Min. 9 Ap.]

(*d*) 9 April 1695. Paper containing a true account of the Irish Mails coming into the Post Office, London, since the 16th March last, as they stand entered in the said office book. On 18 March came in four Irish Mails, viz., of the 5th, 7th, 9th, and 12th inst. On 20 March, the mail of 14th. On 22nd, that of 16th. On 1st Ap., the Mails of 19 and 21 March. On 8 Ap. those of 23, 26, 28, and 30 March. *Dated* at the Letter Office, London, 8 April 1695. *Signed* Daniel Bickerton. [Read this day. Middleton sworn to the truth of the Paper. *Moved* that Curtis, for not answering, be attached. *Ordered* that Curtis be forthwith attached. MS. Min. 9 Ap. No entry in L. J.]

(*e*) 10 April 1695. Petition of Thomas Assheton, Solicitor for the Respondent Robt. Curtis. John Francks, of Preston, Petitioner's brother-in-law, and agent for Curtis in regard to the Estate, put the matter into Petitioner's hands only two days before. Prays that Curtis, who is Agent for several Regiments and otherwise concerned in the army of Ireland, may not be brought over in custody, which would almost ruin him, and may have further time to answer, Petitioner undertaking to send a Special Messenger to Dublin for the Papers. [Read this day, and Order of attachment of yesterday (Annex *d*) to be suspended till further order. MS. Min. 10 Ap. No entry in L. J.]

(*f*) 13 Ap. 1695. Petition of Respondent Robert Curtis. Petitioner was served on 7 March with the Order to answer. He wrote at once to Sir John Champante and to Mr. Luke King for a Copy of the Appeal, and enclosed the former letter to Mr. King and the latter to Mr. Mordeca Abbott at the Pay Office at the Horse Guards; but Mr. King was in Lancashire, so that neither he nor Sir John got Petitioner's letters. Prays for further time, and that the Order for his attachment may be discharged. *Signed* Tho: Assheton, Solicitor for the Respondent Curtis. *Endorsed* as read this day. L. J., XV. 539.

(*g*) 23 Ap. 1695. Answer of Robert Curtis. He bought the Estate for 1,050*l.* and spent over 400*l.* in improvements. The suit was brought in the right Court, as Edward Donelan and Dorothy his wife and John Eves and Mary his wife, the other Defendants, did not live in Lancashire. Appellant's father had the Estate in fee simple. There was no fraud or collusion. *Countersigned* R: Thornhill. *Endorsed* as brought in this day.

917. March 1. Cupper *v.* Hall.—Petition of John Hall, Defendant in two Writs of Error brought in by Matthias Cupper, praying for a short day for hearing them, as they were brought only for delay. *Endorsed* as read this day. L. J., XV. 510.

4-5. Annexed :—

No. 917. (*a*) 7 March.—Certificate signed by Matt. Cupper and John Hall that they have agreed the matter in difference between them with respect to which these Writs were brought. *Dated* 4 March, and *attested*, Rich : Milner, Jo : Barker. *Underwritten* is a Petition by the parties for leave to withdraw the Writs. *Endorsed* as read this day. *See* L. J., XV. 512.

918. March 1. Land Tax, &c. Act (6 & 7 W. & M. c. 3).—Letter to Mr. Walker, informing him that Mr. Jodrell desires him to make out Certificates of the mistakes in the printed Act as to the following Commissioners' names, as the members for whose use they are, are going out of town ; viz., for the County of Southampton, John Pulten, Esq., should be John Pollen, Esq. ; for the West Riding of Yorkshire, John Auby, Esq., should be John Anby, Esq. *Unsigned.* Underwritten are the words, "This I certified, 1° Martii 1694."

919. March 2. Oaths Bill [H.L.]—Amended* Draft of an Act requiring certain persons to take the Oaths to his Majesty. *For the* better security of his Majesty's Government and the *public peace of* this kingdom. Be it enacted by, &c. : That if any person, at any time after the *eighth day of April which shall be in the year of our Lord one thousand six hundred and ninety-five*, shall act as a serjeant-at-law, counsellor-at-law, barrister, advocate, attorney, solicitor, proctor, or notary, by practising in any manner as such in any court or courts whatsoever, not having before [that] *the* time *of such acting* taken and subscribed in his Majesty's Court of Chancery or King's Bench the Oaths mentioned and appointed to be taken in and by, &c. [1 W. & M. c. 8, the Oaths Act], such persons shall incur all and every the pains, penalties, and forfeitures mentioned in the Statute of Provision and Præmunire made in the 16th year of the reign of King Richard II. [Read 1ª this day (L. J., XV. 510) and passed, but dropped in the Commons. The only amendments in Lords' Select Committee on 8 March (*see* Com. Book) were the insertion of the date and the verbal amendment noted above.]

920. March 9.—Crosfeild's Charges against the *Admiralty*.—Petition of Robert Crosfeild. Petitioner having lately dedicated and presented to their Lordships a Book entitled "Great Britain's Tears," setting forth the great abuses committed in the Government by persons in places of trust, and also the embezzlement of the public treasure, to the great hazard of the common safety of the nation, and the Petitioner having in the paper annexed drawn up some part of the said miscarriages and grievances that the nation now labours under relating to the Royal Navy, and being ready by good and substantial evidence to prove the same before the House, prays their Lordships to hear and examine the said grievances, that the Offenders may have such punishment, and the great numbers that are oppressed such relief as shall seem meet. *Signed* Robert Crosfeild. *Appended* are the charges as follows :—

(1.) That the present Commissioners for Sick and Wounded Seamen, and Exchanging Prisoners at War (depending on the Admiralty) not regarding Instructions or the good of the Government, have committed gross enormities, as holding or conniving at an unlawful correspondence with the French, and wronging both King and subject in their accounts, with other great miscarriages, all which has been about a year since laid in writing before the Secretary of State by one Mr.

* Additions in C. W. H. are printed in italics, omissions in square brackets.

Baston, and by the King's command examined before the Lords of the Admiralty, &c. And it will appear that the said Commission has been very injurious to the poor sailors in particular, and very detrimental to the Government in general.

(2.) That the Lords of the Admiralty and the Commissioners of the Navy have acted contrary to the public good by countenancing, supporting and preferring criminals, and on the contrary persecuting the discoverers and turning just men out of their offices.

(3.) That their Lordships have had great discoveries laid before them of embezzlements and other great frauds committed in the King's yards, attended with forgery and perjury.

(4.) That it is manifest some of the Commissioners of the Navy have in the office advanced themselves from Salaries of 30*l.* per annum to vast Estates, having passed great frauds and totally discouraged the discovery of embezzled stores, to the great waste of the public treasure.

(5.) That it has been a long practice in the Navy to make out false tickets and powers suspending and delaying the poor sailors in their just payments, to the general discouragement of them, and starving their families.

[Read this day, whereupon it was *moved* to call the Petitioner in, which was done. *Petitioner* says his name is Crosfeild. He has delivered a Petition. I shall make my Petition good by many witnesses. I have one witness here, Samuel Baston. Withdrew. *Moved*, that the Commissioners of the Admiralty have a copy of the Petition. *Crosfeild* and *Baston* were called in, and the 1st Head was read. *Baston* offers a Memorial of all the proceedings he hath made in this case, and read the same. He was heard to particulars, concerning letters of De Levere out of France for exchanging prisoners. They withdrew. Crosfeild was called in again. *Ordered*, That the Commissioners of Accounts transmit to this House what lies before them in relation to the Commissioners for the Sick and Wounded. *Crosfeild*, asked if he has more witnesses to this matter, says he has. He is told he must deliver in a list of all the witnesses he intends to make use of in this matter and he knows at present (*see* Annex *a* below). Then the Orders set out in L. J. were made (MS. Min. 9 March. L. J., XV. 515).—On 11 March *Mr. Crosfeild* was called in and asked for the names of his witnesses. He says he has drawn a Memorial, which he offers, and says it is a reason why he cannot name his witnesses. The Memorial was read. *Ordered* to be called and told he hath mistaken in his method of desiring of Blank Warrants, &c., and he must take his Paper back again. He was called in and told as above, and told the Lords expect the names of the witnesses he mentions to be above bribing, &c. He says that there are methods to take off witnesses, and withdrew. He was called in and told that on Wednesday next his Complaint is to be considered, and if he will have any witnesses he must name them and he shall have an Order for them; and told he may bring what witnesses he pleases as will come without an Order. He says he will deliver names to the Clerk. *Ordered* (MS. Min. 11 March. No entry in L. J.).—On 12 March a Paper delivered by Mr. Crosfeild (Annex *a*) was read. What particular instances he can give that these papers desired are absolutely necessary. Mr. Baston to be called in, and told that Crosfeild has mentioned some papers to be sent for to the Admiralty, and hear what he can say why they are requisite. *Asked*, can he give, upon oath, satisfaction that these papers will be

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necessary? *Baston:* I do think they are necessary, and will be of use. *Ordered*, the Papers and persons be sent for as desired (MS. Min. 12 March. L. J., XV. 517).—On 13 March Mr. Bridgeman at the Bar delivered the Paper from the Admiralty.* In C. W. H., Bp. Salisbury in the Chair, *The Commissioners of Sick and Wounded* were called in and asked what they had to say to the Petition of Crosfeild. They say they have brought nothing in writing; but that they have been heard before the King and Council and acquitted; and they can make no answer to so general things. *Mr. Crosfeild and Baston* were called in and told the witnesses should be called in. He says the witnesses are here. The House was resumed and the witnesses were called in and sworn; and in C. W. H., Bp. Sarum in the Chair, evidence was taken. *Capt. Carr:* I commanded the *Lenox*. May 1694 I was sent a cruising. I took the *Judith and Anne* Pink, laden with currants. I brought them to St. Helens, to the Fleet. Why she was not condemned I cannot tell. All the letters I found aboard were delivered to Rutter. Some part of the currants were condemned. *Capt. St. Loe* was heard at the Bar, and *Richard Martin. Abraham Cosserat* heard: I had about 4*l.* 10*s.* per cent. *Cornel: Noortwÿch:* I know not the direct quantity of rhubarb I sold; 1 or 2 hundred at 4*l.* 10*s.* per cent. It was sold by public sale. *Rich: Gibson:* In 1689 I attended the Commissioners for Transport. Addison and Sheppard were Commissioners. The tender was shown to the Commissioners of Sick and Wounded. Capt. White, he gave half-a-crown a head for . . . I left the place Nov. 1690. *Mr. Baston* reads a copy of a French letter, translated by a public notary, of 9 Sept. 1693, and other letters. He was told he would be heard as a witness to-morrow, and that he prepare it in writing (MS. Min. 13 March).—On 20 March (the Committee having been put off to this day on the 14th) Mr. Tallet, Secretary to the Commissioners appointed by a late Act of Parliament to examine take and state the Public Accounts of the Kingdom, delivered the Papers, as ordered 9th inst. (*see* L. J., XV. 515). *Mr. Baston* being called in delivered his information upon oath in writing. *Ordered* that the papers be returned to the Commissioners of Accounts, and that Baston's and other informations be sent to them, and that they proceed to perfect their examination therein; and when they have so done, they give this House an account thereof (MS. Min. 20 March; L. J., XV. 523).—On 21 March, Mr. Crosfeild's 2nd and 3rd Heads of Complaint were read, and the examination thereof was referred to the Commissioners of Accounts (MS. Min. 21 March; L. J., XV. 524).—Nothing more is recorded until 29 Jan. 1695-6, when another Petition of Crosfeild was read (Annex *b*), and the Commissioners of Accounts were ordered to give the House an account of what they had done pursuant to the Orders of the House the last Parliament (MS. Min. 29 Jan. 1695-6; L. J., XV. 654).—On 22 Feb. the House was informed that there was a Paper given at the door reflecting on this House by Robert Crosfeild. Mr. Crosfeild was called in, and shewed the Paper (Annex *e*), and owns the Paper. Was asked who printed it. Said if any evil, it lies on me. I desire time to consider of it. *Ordered* that Robert Crosfeild be immediately attached for refusing to give account who printed it (MS. Min. 22 Feb.; L. J., XV. 677).—Crosfeild was discharged from custody on the 29 Feb., on his Petition (Annex *f*), L. J., XV. 687].

* The Report of the Admiralty to the King concerning the Commissioners for Sick and Wounded, and all the complaints against Mr. George Dickinson, of Plymouth, had been ordered to be produced (L. J., XV. 517).

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Annexed:—

(*a*) 12 March.—Witnesses' names to prove the several Heads of Robert Crosfeild's Petition.

1st Article.—That the Lords of the Admiralty be directed to lay before the House their Report to the King about the Commissioners for Sick and Wounded, and all the complaints against Mr. George Dickinson at Plymouth.

Capt. Carr at Capt. Mitchell's lodgings in Whitehall, or to inquire there for his house.

Capt. Geo. St. Loe, Commissioner of the Navy, at the Navy Office.

Mr. Richard Gibson, in Colchester Street, in Crutched Friars.

Mr. Richard Martin, Apothecary, in Fan Church-Street, against the Mitre Tavern.

Mr. Cossart and Mr. Noortwijch, Drug Merchants, in Abchurch Lane, Lombard Street.

Mr. Samuel Baston, at the upper end of Curle Court, near Bedford House, in the Strand.

Mr. Thomas Baston, at the Admiralty Office. (L. J., XV. 517.)

2nd and 3rd Articles.—That the Lords of the Admiralty be ordered to lay before the House the Bills made payable to John Gawler for the goods of Capt. Boghurst, the Dane, and all the papers relating to embezzlements that have been laid before their Lordships.

Mr. Edward Batten, at the Bell Savage Inn on Ludgate Hill, or gone to Portsmouth; and to bring with him all the Papers relating to the matter of Capt. Boghurst, the Dane.

Capt. Cole, Officer of the Customs at Portsmouth.

Mr. John Gawler, at Portsmouth.

Navy Board be ordered to lay before the House the affidavit made by Case Billingsly against Mr. John Trevor.

Mr. Richard Marks, at Portsmouth.

Mr. John Goodwin, Ropemaker, at Portsmouth.

Mr. Shevalier, a taylor in Portsmouth; and to bring up all the canvas he bought of Mr. Tiddeman, the King's sailmaker. But if it does not still remain in his hands, yet to come up himself.

Mr. John Hawker, Officer of the Excise on Salt. To inquire at the Excise Office where he may be found.

Mr. Thomas Thomas, Blackman Street, Southwark. Also his sister, who lives near him.

Mrs. Mary Trevor, near Stroud Church, near Rochester.

Mr. John Trevor, at the Lord Cornbury's, in Duke Street, near St. James' Square.

4th Article.—Mr. Justice Yardley, at Chatham.

Mr. Pawlin, brazier, at Rochester.

Mr. Tho. Tunbridge, at Chatham; and to bring up such of the King's Stores that he has in his custody.

Mr. Adds, at Chatham, near Mr. Tunbridge's.

Mr. Geo. Everrett, near Redriffe Church; and to bring with him all the Depositions in his custody relating to embezzlements.

Mr. Wm. Downer, sailmaker, at Shadwell Dock; and to bring an Account in writing what he offered to the Navy Board in reference to embezzlements.

Mr. John Lee, sailmaker, near the Hermitage.

Mr. James Wilson, sailmaker. Enquire for him at Mr. Lee's.

5th Article.—That the Lords of the Admiralty do lay before the House the List of the false tickets and powers, with all the

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Papers relating thereto, that has been laid before their Lordships.

That Mr. Richard Gibson (mentioned in the 1st Article) do lay before the House all his Pilots' Bills, &c., that are postponed. [Delivered and read this day. (L. J., XV. 517.) *See* Note, above, of proceedings on March 9, 11, 12.]

(*b*) 29 Jan. 1695–6.—Petition of Robert Crosfeild, appending copy of his former Petition of 9 March, and praying for a speedy hearing. The Petition has not been thoroughly examined, and Petitioner is ready to prove the Allegations and Articles therein. The corruptions and miscarriages alleged therein have not been redressed, nor the actors therein punished, nor the great numbers of oppressed had any relief (but their miseries increased). [Read this day. L. J., XV. 654. *See* Notes above.]

(*c*) 13 Feb. 1695–6.—Letter from Crosfeild addressed to the Right Hon. Sir George Treby, Lord Chief Justice of the Common Pleas, as follows:—My Lord, The great difficulty I have found to get a Petition conveyed into the House of Peers obliges me to give your Lordship this trouble. I have a Petition of Complaint against divers notorious corruptions *in the Government* now depending in the House, upon which their Lordships have issued an Order to the Commissioners of Accompts; but the said Commissioners delaying, or rather never intending to obey the said Order, and fearing the House of Peers as well as the Nation in general may be again imposed upon and disappointed this Session of Parliament as they were the last, I therefore humbly pray your Lordship to read the enclosed petition (*see* next paper) to the House, it being of great concern to the public good; and Mr. Baston (who is named therein) with myself are attending at the door to answer the same. *Signed* Robert Crosfeild. *Dated* this day. [*See* Annex *e*.]

(*d*) 13 Feb. 1695–6.—Petition of Robert Crosfeild. When Petitioner presented his Petition last Session and this Session of Parliament, it was not only designed to lay open the corruptions and evil practices of the Admiralty, Navy, and Sick and Wounded Offices, but also intended as an appeal from the justice of the Commissioners for stating the Public Accompts, who in the latter end of the year 1693 had the complaint laid before them against the present Commissioners for Sick and Wounded, which, contrary to the public good, they have delayed to this day in the manner following, viz.: The said complaint was about five months in their Office sworn to before it came under examination, till on the 1st of August 1694 the said Commissioners of Accompts sent for Mr. Baston and, after rejecting the first three Articles in his complaint, they in an illegal and arbitrary manner examined the rest, and countenanced and concealed manifest perjury therein, as well as other notorious crimes, all which lay dormant till the beginning of March 1694–5. Petitioner the last Session of Parliament (9 March 1694–5) presenting his humble Petition to the House, their Lordships ordered the Commissioners of Accompts to lay before the House an account of the proceedings against the Commissioners for Sick and Wounded, to which in eleven days they returned only a verbal answer, and pretended the matter was still depending before them, and not finished, &c., by which they prevailed to have

it recommitted, which was accordingly done, as well as the 2nd and 3rd Articles, which they examined as illegally as before (all which appears by what Mr. Baston and Petitioner have set forth in print) [*see* Annex *e*]; And so the matter has been delayed by the said Commissioners of Accompts to this day, by which means the nation has been sadly disappointed of a most necessary discovery, which otherwise might have been laid open to their Lordships the last Session of Parliament, and in all probability infinite evils prevented that has since fallen upon the public. The Commissioners of Accompts having acted in this manner, their Report, whenever they make it, will appear to their shame, and Petitioner conceives it naturally follows they will never obey the Order of the House (which has already been fifteen days unanswered), so as to make a Report of these matters willingly, but endeavour by all means possible to evade and delay it this Session also, under divers specious pretences of other more important business. For preventing of which, and for that the Petitioner conceives the distresses and danger that the public lies under are very great by reason of the violent perverting and obstructing of justice, and for that the adversaries have no way to withstand a legal hearing of these notorious matters but by the aforesaid method of delays, Petitioner prays their Lordships to appoint a Committee to hear and examine the Articles and allegations in his late Petition, who, in the mean time that the Commissioners of Accompts may delay their Report, shall have divers enormous crimes proved before their Lordships that were never before the Commissioners of Accompts. [Enclosed in preceding.]

(*e*) 22 Feb. 1695–6. Printed Account of Robert Crosfeild's Proceedings in the House of Lords the last Session and this Session of Parliament, wherein will appear the present miserable state and condition of the nation, by the open violating and invading of the Law and Liberty of the Subject, humbly presented to the consideration of the Lords and Commons in Parliament assembled.—It is by all men an allowed principle that 'tis the bounden duty of every Subject, by the laws of God, Nature and the Nation, to contribute all that in him lies towards the Glory of God and the service and preservation of his native country; and the greater his quality and station is, whether Spiritual or Temporal, so much the more is this duty incumbent on him. If this wholesome principle had been truly and sincerely practised this reign, then might we have expected that God would have blessed our endeavours, and not have suffered us to have endured so long and tedious a War, and so great expense of blood and treasure; and at last to be reduced to such a pitch of misery as this nation never groaned under; and (which is more deplorable) not caused by our enemies abroad, but our pretended friends and patriots at home; and, which is worst of all, the nation's groping, as it were, in the dark, not seeing the true rise and cause of our present misery and approaching ruin. All which will appear by the violent oppression, injustice, and judicial blindness of the present age. For brevity's sake I shall pass over a great Act of Injustice (published by me in my book entituled *Justice perverted*, &c., page 24) done to the public by the Commissioners of Accounts, in the beginning of the Session of Parliament holden in the

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year 1694–5, and begin the relation of my proceedings at the exhibiting my Petition to the House of Peers, the same Session of Parliament, as followeth, viz.: March 9, 1694–5, I presented to the House of Peers the following Petition (Crosfeild's Petition, as above, is here set out). But ere I could get the aforesaid Petition read in the House of Peers, I met with several difficulties; many lords, both Spiritual and Tempora., declining to carry in the same; and, being almost out of hopes, at length I met with a noble lord that with much freedom carried it into the House, and caused it to be read on the 9th of March last; Whereupon their Lordships were pleased to order the Commissioners of Accounts to lay before the House an Account of the Proceedings against the Commissioners for Sick and Wounded; and in the meantime their *Lordships* did hear and examine part of the matter at the Bar of the House, which put me in great hopes that all the evil practices would have been laid upon that Parliament. [In margin, "Behold a trick."] But the Commissioners of Accounts *fearing that* the notorious matters of Perjury, &c., lying in *their office, would* have come to light, they, to prevent the same, *pretended* to the House, in answer to their Lordships' Order, That the matter was still depending before them, and not finished, &c. And so prevailed with their Lordships to recommit the matter to them, which was accordingly done the 20th of March last, and the next day the 2nd and 3rd of the above-mentioned Articles were also referred to their examination, with order to transmit the same, when perfected, to the House; which, by reason of much important business, they have not had leisure to do to this day! But how evilly they have examined the aforesaid matter sufficiently appears by what has been published in print (*vide* Baston's Case, and *Justice perverted*), and will also be further demonstrated by what ensues, and so all these enormous crimes were hid, covered, and hushed up the last Session of Parliament, by these gentlemen's great ingenuity. But in order to the detecting these fallacious practices, I did, against the meeting of this present Session of Parliament, print and publish a Book entituled *Justice perverted*, &c., which I dedicated to both Houses of Parliament, setting forth some of the horrible corruptions in the Government. Also Mr. Baston printed and published his Case, dedicated to the House of Peers, containing, not only the evil practices of the present Commissioners for Sick and Wounded, but also the more evil examination thereof by the Commissioners of Accounts. And that all these foul matters might come to a fair examination, I drew up a Petition to the House of Peers; but before I insert it, I shall relate the great (and, I believe, unparalleled) difficulties I met with in bringing the said Petition into the House. Having drawn up my said Petition, I repaired to that noble Lord who carried it into the House the last Parliament, and prayed his Lordship to cause it to be read, but found his Lordship very cool in the matter, though not refusing to do it. In this manner I waited upon and attended his Lordship near a month; but finding nothing move, and much time lost, I drew another copy of my Petition, and presented it to divers other noble Lords, both Spiritual and Temporal; but none thought fit to adventure to carry in the said Petition, though the matter was actually depending in the House from the last Parliament; upon

which I was necessitated to take other measures, and thereupon I wrote a Letter to my Lord Keeper, and sent it into the House to his Lordship, by the Gentleman Usher of the Black Rod, a Copy of which Letter is as followeth :—

My Lord, Jan. 27, 1695–6.

Although it is the unquestionable right of every freeborn subject of England to have the liberty of petitioning, and though it has in all ages been also accounted the indispensable duty of every Peer, not to refuse a Petition that shall be offered him, yet have not I been able, in a month's attendance and solicitation of several noble Lords, to get a Petition carried into the House of Peers. My said Petition is against notorious crimes that have been committed in the Admiralty, Navy and Sick and Wounded Offices, whereby the King and kingdom have been grossly abused and the public treasure wasted, to a very high degree, which has already greatly endangered the common safety, and certainly will, if not timely redressed, bring the nation into confusion ; all which I am fully able to prove. Therefore, as an Englishman, I feel myself obliged to lay open the same, by the duty I owe to God, my King and my country. And so I most humbly pray your Lordship to cause this Letter to be read to the House, and move that I may be called to the Bar to present my Petition, being sorry I am forced to trouble your Lordship with this new way of petitioning the House of Peers. I am attending at the door of the House, and remain, with all profound respect,

My Lord,
Your Lordship's most obedient servant,
Robert Crosfeild.

At the receiving of which letter, my Lord Keeper, as I was informed, acted with a great deal of honour ; for immediately he reported the true nature and substance of it to the House, telling their Lordships withal that 'twas the severest charge that ever he read. At the making of which report the same Lord (who I had long applied to before) came out of the House in great haste, and sent one of the door-keepers to me in the Painted Chamber, desiring me to send him my petition, he having lost that which I had given him before, which I accordingly did ; and then his Lordship returning into the House, spake, as I was informed, to this effect :—That he acknowledged he had been very much teased about bringing in this petition, but that when he brought it in, the last Parliament, it not meeting with that encouragement, he hoped and expected it would have had, was the reason why he was so backward in doing it this Session ; at which several of the Lords stood up and said, that if it had been offered to them, they would have brought it in ; and the whole House said they were very willing to hear it ; but that the business for the day was ordered for the East India Company. So my petition not being read that day, I concluded his Lordship would have caused it to be read the next morning. But finding nothing moved, and fearing things were all asleep, I wrote out another copy, and the next morning, viz., 29th of January, I offered it to a noble Lord, who told me he heard I had been refused almost by everybody, and that,

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he would carry it in for me, which his Lordship accordingly did and immediately it was read. [Here follow Crosfeild's Petition of 29 Jan. (Annex *b* above) and the Order of the House upon it (L. J., XV. 654. *In extenso.*)] As soon as this Order was made, I was told by a Member of the House that when the Commissioners of Accounts returned their answer, and that the whole matter lay fairly before the House, that then their Lordships would appoint a Committee to examine it. Accordingly I waited several days, and finding no report from the Commissioners of Accounts, and having good grounds to believe they would never return any, by reason it would discover their own partial and illegal practices, I therefore acquainted a noble Lord therewith, and prayed his Lordship to move the House to appoint a Committee to examine these corruptions, before whom I would prove divers notorious matters that were never before the Commissioners of Accounts, and delivered his Lordship a petition to that purpose, which will be hereafter inserted. But his Lordship did not think fit to move the House thereupon, telling me I had better wait some time longer, which I accordingly did. But finding that divers crafty and scandalous reports were spread abroad, namely, that my design in bringing the complaints was not so much for the public good, as it was to cause heats and feuds in Parliament, to hinder the King's affairs; for that if these matters were laid before the King, his Majesty would effectually redress the same; but to quit myself of such a calumny, I drew up a petition to his Majesty, which I presented at Kensington, on Sunday the 9th of Feb. inst. A copy of which petition is as followeth:—

To the King's Most Excellent Majesty.

The humble Petition of Robert Crosfeild

Sheweth—

That your Petitioner hath a few days since presented his humble petition to the House of Peers, where it is now depending, setting forth the great corruptions and evil practices of the Admiralty, Navy, and Sick and Wounded Offices, a copy of which is hereunto annexed. (Vide the petition and articles in the beginning of the paper.) That the said corruptions having been practised and strongly supported the greatest part of your Majesty's reign, your petitioner humbly conceives, that 'tis from thence has proceeded all the ruins and distresses that have fallen upon the public, which if not redressed, are likely to increase to such a degree as to prove of fatal consequence. That as these proceedings do greatly tend to alienate the hearts of your Majesty's good subjects, who have ventured their lives and their fortunes for your Majesty's service, so, on the contrary, the redress of these grievances and bringing the offenders to justice, will greatly draw the affection of your faithful people to your Majesty's Government; and your petitioner in all humility conceives, that the general love of those millions of your Majesty's good subjects that have and do so freely contribute their estates for your Majesty's service, is much more to be valued than the love of those few that serve your Majesty chiefly for the lucre of great estates, some of whom 'tis to be feared, will be too ready, when opportunity serves, to draw their swords in behalf of your Majesty's enemies; the truth of which appears by their wilful fatal management in almost every branch of your

Majesty's service this war. That your petitioner being desirous, if possible, to prevent these matters being examined in open Parliament, lest feuds and heats should arise, which may be of ill consequence to your Majesty's affairs, and being humbly of opinion that your Majesty may redress these grievances by a Committee of such noble persons, who well understand the nature of the crimes, and are of known integrity and zealous for your Majesty's true interest and happy government; the names of whom your petitioner has humbly presumed to insert.

Duke of Shrewsbury.
Lord Privy Seal.
Marquess of Normanby.
Earl of Rochester.
Earl of Bridgwater.
Earl of Stanford.
Earl of Marlborough.
Earl of Monmouth.
Earl of Torrington.
Lord Cornwallis.
Marquess of Carmarthen.
Lord Cornbury.
Sir Richard Onslow.
Sir Samuel Barnardiston.

Your petitioner therefore most humbly prays your Sacred Majesty, to appoint the said Commitee so named, with such other persons as your Majesty in wisdom shall think fit to add thereto, to hear and examine the articles and allegations in the annexed petition, and with all convenient speed to make a report to your Majesty, without the accustomed formality and delays, that the offenders may be punished, the grievances redressed, and the minds of your Majesty's good subjects quieted, and their hearts re-united to your Majesty in all love and duty. And your petitioner shall ever pray.

Robert Crosfeild.

The same evening, I received the King's answer to this petition, by the Secretary of State to this effect,—That my petition was read, but that the matter being depending before the House of Peers, his Majesty did not think fit to meddle with it. And thus I found the aforesaid reports of the King's hearing these matters to be utterly false. Whereupon I applied again to the House of Peers, and finding no report, nor any answer returned from the Commissioners of Accounts, nor any probability of the same, I drew another copy of the afore mentioned petition relating to the Commissioners of Accounts, which by reason of the great difficulty I had found to get it carried into the House, I inclosed it in a letter and sent it to Sir George Treby, Lord Chief Justice of the Common Pleas, who was then Speaker of the House, my Lord Keeper being indisposed, by the Gentleman Usher of the Black Rod. A copy of which letter and petition is as followeth. [Here Annexes *c* and *d* above are set out.] The petition enclosed in the aforesaid letter was delivered by the Usher of the Black Rod to Sir George Treby, and I, expecting his Lordship would have moved the House therein, as my Lord Keeper had done before, I attended that day, but heard nothing of it. Then I

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came to the house the next morning, and understood from one of the Clerks of the Parliament, whose name, I think, is Walker, that Sir George Treby had given my letter and petition to him, and told him he had nothing to do to move the House in it, and that every body knew Mr. Crosfeild's business, and offered to give my petition back. Thus all these foul crimes that have been laying open these two Sessions of Parliament, are knocked down dead by this last act of denial of Justice in the highest Court of Judicature; which has obliged me to print these proceedings, and because the matters are so notorious, as hardly to be paralleled in any age or nation, I shall therefore crave leave to make some observations upon the whole. And first, observing our unaccountable losses and miscarriages, with the great straits in which the public is brought to find out money for carrying on the war, it is matter of amazement to consider that there should be such coldness, or rather unwillingness, to examine into that mass of wickedness that has been laid open, which, having overspread the nation like a *leprosy*, has been the true cause of all our passed and *present miseries*, and must inevitably bring us to ruin, if the laws are not speedily put in execution to prevent it. I say 'tis matter of amazement that we should be backward to enquire into the cause of our misery. Secondly, our practices are not only contrary to the rules of common prudence and reason, but also to the practice of all other nations, it being publicly known, that the French and Venetians have lately constituted Commissioners to enquire into public frauds; as naturally concluding, though none are complained of, that there will be cheats and embezzlements of the public money in time of war, when there is most need of frugality. But we are so far from doing like them, that we are unwilling to enquire into those notorious miscarriages that are already laid open, though some of them have been actually proved over and over, and the criminals protected and continued in their employments to this day. Thirdly, that as my Lord Keeper acted with much honour, and did his duty for the *public good*, in reporting my letter before mentioned to the House of Peers, so, on the contrary Sir George Treby, in refusing to read or report my letter or petition to the House, has not only denied justice and put a stop to this necessary discovery, and contributed to protect those criminals that ought to be brought to justice, but has also given a precedent to encourage evil practices, and destroy the liberty of the subject by taking away the petition right. For if Officers and Ministers of trust act corruptly and oppress the people, and there be no way to appeal from their justice but to Parliament, then such appeal or complaint must be by petition. But if the known liberty and right of petitioning be destroyed and our laws are ineffectual, and all great men become lawless, none being able to bring them to answer their crimes, and if our laws are not put in execution, they are in effect discontinued and abolished. And if laws be the foundation, support and upholder of government, then whatever government wants will or strength to assert its own laws, and bring offenders to justice, must needs be in a very weak and tottering condition, and near a period. And this ought to be matter of great sorrow to all thinking men that wish the prosperity of their country, for however slightly it may be thought

of, 'tis certainly a most sore and dangerous disease, and requires a speedy and strong purge, or 'twill be past cure.

And therefore in short, if there be any law in England to punish those heinous crimes that I have offered to prove, I do, and shall insist on, and demand it as my birthright, to be speedily and legally heard upon my petition and articles now lying in the House of Peers, not doubting by their Lordships' wisdom, prudence, and moderation, matters may soon be regulated to the happiness of the King and kingdom.

Robert Crosfeild.

February 18th, 1695–6.

[Produced in the House this day, as reflecting on the House, and Crosfeild attached. *See* Note above. L. J., XV. 677–8.]

(*f*) 29 Feb. 1695–6.—Petition of Robert Crosfeild. Petitioner, out of pure zeal to serve his King and Country, has for about two years past been at great charge and expense to discover and detect the corruptions and evil practices of several persons now in places of great trust in the Government, and has not to this day been able to obtain a legal hearing, but, on the contrary, has been slighted, persecuted, and defamed by almost all persons, to the great discouragement of petitioner, and all faithful subjects, and encouragement of offenders to go on, persist, and grow bold in their crimes, though of the greatest magnitude. Finding such great obstructions and discouragement in his sincere and loyal designs for the public good, he resolved to acquaint their Lordships therewith, and accordingly, in a printed Paper [*see* preceding], did, on the 22nd of February inst. lay before the House a true state of his proceedings, appealing to their Lordships' justice for relief therein; but being so unfortunate, by miswording the said Paper, to fall under their Lordships' displeasure (being now in custody of the Black Rod), and being truly sorrowful for his said offence, and most humbly begging pardon for the same, and having reduced his worldly substance to a low ebb, by his great zeal for the public good, prays to be discharged out of custody, that he may be at liberty to prove the articles and allegations in his late Petition when required by the House, and that he and his family may be saved from ruin. *Endorsed* as read this day. L. J., XV. 687 [*See* Note above.]

921. March 16. Foreign Seamen Naturalisation Bill [H.L.] Amended* Draft of an Act for naturalising foreign Seamen. Whereas by the known laws of this realm all aliens and foreigners born under the allegiance and subjection of foreign princes and states are not allowed to partake of the liberties, freedoms, privileges and immunities enjoyed by the natural born subjects of this his Majesty's realm, and other his kingdoms and dominions, which, by experience is found to be a hindrance and discouragement to divers foreign seamen and mariners aliens born out of the allegiance and subjection of the kings and queens of this realm, to repair or come over from parts beyond the seas to serve the King's Majesty in time of war, and the merchants, and other his subjects, in time of peace, to the great detriment of the maritime affairs of this kingdom. Wherefore and to the intent and purpose that the aforesaid incapacities and other impediments may be removed, and that the number of able and expert seamen, mariners, sailors, and others

* Additions are printed in italics, omissions in square brackets.

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skilful in the art of navigation, may be increased, to the benefit and advantage of this realm. Be it enacted, &c. that all and every foreign seaman and seamen, mariners, sailors and others skilful in navigation and sea affairs, though aliens born, [but professing the true Reformed Protestant Religion] may at any time or times hereafter *before the first day of May which shall be in the year of our Lord* 1696, lawfully repair and come into this realm from foreign parts, to serve [the King's Majesty] in the ways of the calling and occupations aforesaid, *either on board his Majesty's fleet, or in any English merchant ship*, so as they shall within *fifteen* days of their coming and arrival in this realm respectively, repair and produce unto *a justice of the peace or the Chief Magistrate of the place, or any officer of the Customs*, authentic certificates that they have respectively served at sea for the space of *three* years or more, before such their arrival respectively in this realm [and for the space of years or more before such their coming, professed the true protestant and reformed religion]. And further shall in writing, give in their names, surnames, and the places of their last abode respectively, and also the names of their respective wives and children, *if they have any*, that shall come over into this realm with purpose to *inhabit* and serve here as other his Majesty's subjects do, to be entered into a book of Registry, to be kept for that purpose by the said *Justice of the Peace or the Chief Magistrate of the place, or any Officer of the Customs.* And after they the said seamen, mariners, sailors and other the said persons skilled in navigation shall have stayed and resided in this realm, or at sea, in the ships of war of this realm, *or merchant ships, as aforesaid*, for the space of one year, and shall have given sufficient proof and assurance of their loyalty and affection to the King's Majesty and the Government, that then they and every of them doing and performing what is herein before enjoined them, and also their said wives and children, *if they have any*, shall from thenceforth be naturalised, and shall be adjudged, reputed, and taken, to all intents, constructions and purposes naturalised and free-born subjects of this kingdom of England, and to be in every condition, respect and degree, free to all intents, constructions and purposes, as if they and every of them had been and were born natural subjects within *this kingdom*. And be it further enacted by the authority aforesaid, that all and every the person and persons aforesaid, observing the methods hereinbefore prescribed, shall from henceforth be, and are hereby enabled and adjudged able to all intents, purposes and constructions whatsoever, to inherit and be inheritable and inherited and to demand, challenge, ask, take and retain, have, and enjoy, all or any manors, lands, tenements and hereditaments, goods, chattels, debts, estates, and all other privileges and immunities, benefits and advantages in law or equity belonging to the liege people and natural born subjects of this realm, and to make his, her or their resort or pedigree to his, her or their ancestors, lineal or collateral, by reason of any descent, remainder, reverter, right or title, conveyance, legacy or bequest whatsoever, which may or shall from thenceforth descend, remain, revert, accrue, or grow due to them or every of them. And also from thenceforth to take, have, retain and enjoy all manors, lands, tenements, and hereditaments which he she or they may or shall have by way of purchase or gift, of any person or persons whatsoever. As also to prosecute or sue, maintain, avow, justify and defend all and all manner of actions, suits and causes and all other things to do as lawfully, liberally, freely and beneficially, as if they and every of them had been born of English parents within this kingdom, and as any other person or persons born, or derived from

English parents within this kingdom may lawfully in any wise do. And in all things and to all intents shall be taken to be, and shall be natural liege subjects of this kingdom of England, any law, act, statute, provision, custom, ordinance or other thing whatsoever had, made, done, promulged, proclaimed or provided to the contrary, in any wise, notwithstanding. And be it also enacted by the authority aforesaid, that all and every seaman and seamen, mariner, sailor, or other person who shall come over into this realm by [force] *virtue* or provision of this Act, being of the age of *sixteen* years or more, shall within *one year* [months] after such his or their arrival, duly take the oaths of Obedience and Supremacy, mentioned and contained in one Act of Parliament made in the first year of the reign of his present Majesty and the late Queen of blessed Memory, entitled—An Act for abrogating the oaths of Supremacy and Allegiance, and appointing other oaths, according to the directions of the said Act, upon pain that the person or persons hereby required to take the said oaths, and who shall refuse or neglect to take the same, shall [incur the penalty] *from thenceforth, have no benefit by this Act*, anything herein contained to the contrary notwithstanding. [On 13 March it was *moved* that the Judges draw a Bill that all strangers, being Protestants, and bringing a Certificate of their having served at sea shall be naturalised. *Ordered* &c. (MS. Min.)—This Bill was accordingly brought in and read 1ª on 16 March (L. J., XV. 520)—On 21 March, in C. W. H., Bp. Salisbury in the Chair, the Commissioners of the Admiralty were called in and asked whether it would not be convenient, both for manning the fleet and carrying on the trade, to encourage foreign seamen to come into England. *Priestman:* It appears to be reasonable to do it, for there are 50,000 employed in the fleet. *Sir Geo. Rooke:* The extravagance of wages given by merchantmen and the great charge the King is at makes me believe it will be advantageous to trade and carrying on the war. There is a want of seamen. *Sir J. Houblon* of the same opinion. The seamen had rather go in merchantmen than others, because of the wages; and yet, if protected, they cannot be supplied. Then the amendments noted above were made, and the Bill was agreed to be reported by 13 votes to 10; E. Scarborough and E. Torrington, Tellers. (MS. Min. 21 March.)—The Bill was sent to the Commons on 27 March, where it was laid aside after a First Reading. C. J., XI. 283, 291.]

922. March 18. Fotherley *v.* Wankford.—Petition and Appeal of John Fotherley, Esq. Robert Wankford sued Petitioner in Chancery for 3,000*l.* alleged to have been promised by Petitioner, in a letter written by one Miles by Petitioner's direction, as a marriage portion with Dorothy, Wankford's late wife and Petitioner's daughter. The original letter had been lost, but the Lord Keeper, upon a mere copy and on the testimony of only one witness, decreed Appellant to pay Wankford the 3,000*l.* or interest from the date of the marriage, and the costs. Respondent, by delay and surprise, defeated an Order for a Rehearing obtained by Appellant, who appeals against the Decree on the above grounds, and also because the matter ought to have been tried at law, and because no allowance was made to him for his daughter's funeral expenses, which Respondent ought to have paid. He also pleads the Statute of Frauds. *Countersigned* Wm. Wogan, Jo: Hawles. L. J., XV. 521. [At the Hearing on 4 April 1695 *Mr. Solicitor* and *Sir Barth: Shore* appeared for Appellant. The latter said Mrs. Miles was the only witness as to the letter. *Sir Thomas Powis* and *Mr. Dobbin* were heard for the Respondent: This Miles first

1694–5. — No. 922. moved the match to Mr. Wankford, and said he would give her 4,000*l.* Mr. Fotherley sent a letter that he would give 3,000*l.* Miles writes again to Warren, and wonders he had no answer. Mr. Wankford understood he might be received. He sent word he would come. Mr. Fotherley meets him. The letters were produced, and Fotherley said Miles had exactly pursued his directions. Appeal dismissed with 20*l.* costs. MS. Min. 4 Ap. 1695. L. J., XV. 531.]

Annexed :—

(*a*) 28 March 1695. Answer of Robert Wankford, Esq. Henry Warren and Jeffry Miles, his brother-in-law, being fellow-townsmen of the Appellant, at Rickmansworth, proposed the match to Respondent, who had an Estate of 1,000*l.* a year, and agreed to settle lands worth 350*l.* a year on his wife, paying off a mortgage of 3,000*l.* with the marriage portion. The marriage took place in Jan. 1689–90, before the Agreements could be prepared, but Appellant called in a debt of 3,000*l.* to pay the portion with. His debtors, however, desiring more time, the payment was deferred, Appellant agreeing to pay interest. Soon afterwards the wife and Miles died, and the Appellant repudiated his engagements. *Countersigned* Tho: Powys. *Endorsed* as brought in this day.

(*b*) 28 March 1695. Petition of Robert Wankford for a day for hearing. *Endorsed* as read this day. L. J., XV. 526.

923. March 21. Bp. Lincoln.—Writ of Summons, dated 18 March, to James [Gardiner] Bishop of Lincoln, who took the oaths this day. L. J., XV. 524.

924. April 3. Expiring Laws Continuing Act (Printing Act Revival).—Draft of a Clause continuing for one year from 4th April 1695, and from thence to the end of the next Session of Parliament and no longer, the Act 13 and 14 Car. II. c. 29, for preventing abuses in printing seditious, treasonable and unlicensed books and pamphlets, and for regulating of printing and printing presses, which had been revived by 1 Jac. II. c. 18, and 4 & 5 W. & M. c. 24. [*Added this* day by the Lords in C. W. H. to the Laws Continuing *Bill*, which was brought from the Commons on 29 March and received the Royal Assent on 22 April. 6 & 7 W. III. c. 14. The Clause was rejected by the Commons and not insisted on by the Lords. L. J., XV. 527, 545–6, 561 ; C. J., XI. 305–6 ; MS. Min., April 3, 18.]

Annexed :—

(*a*) 3 April. Engrossment of preceding.

925. Ap. 3. Leisler's Attainder Reversal Act.—Amended Draft, with the Sign Manual, of an Act for reversing the Attainders of Jacob Leisler and others. Almost identical with Act, the only amendments being the addition, in Lords' Select Committee, of the word "producing" before "any legal authority, demand," &c., and the omission of "arbitrarily, illegally and unjustly" before "convicted and attainted," &c., at the end of the preamble. [Read 1ª this day ; Royal Assent 3 May. L. J., XV. 530, 589. 7 Will. III. c. 50, in Long Calendar. In Select Committee on 9 April Abraham Gouverneur and Jacob Leisler were present and prayed the passing of the Bill. Com. Book.]

Annexed :—

(*a*) 9 April. Lords' Amendments in Select Committee this day. They are described above. Com. Book.

926. April 3. Convex Lights (M. Normanby).—Petition of Wm. Armstrong, a bailiff, who had been ordered into custody the previous day for arresting one Samuel Hutchinson, at the suit of Bridget Blackman. Hutchinson was attending the House pursuant to its Order, but never gave Petitioner any account thereof. Begs pardon for his offence and prays to be discharged. L. J., XV. 529, 530. (*See* No. 822, Annex (*c*).) [Arthur Moore and Edw. Windus swore at the Bar that Armstrong had been shown the Order of the House. Armstrong was reprimanded and discharged (MS. Min. April 2, 3).—On 29 March the House was informed that in an Answer in Chancery there are some words that do reflect upon this House, and the Bill and Answer were ordered to be sent for. The Answer is described as that of Samuel Hutchinson and Sir Charles Hara to a Bill exhibited by Arthur Moore, Roman Russell and others, and Hutchinson, Moore and Russell were ordered to attend. (L. J., XV. 527. MS. Min., 29 March.)—On 30 March Mr. Carter, the Clerk in Chancery, delivered the Answer of Arthur Moore to Hutchinson and Sir C. Hara's Bill. The place in the Cross Bill was read, and likewise the words in Moore's Answer. *Moore* was called in and sworn, and told that nothing he said should in any way prejudice himself. He says it is his Answer. He is told the Lords are surprised to see these words in a Court of Justice, and they think it reflects on the House, and they expect a clear answer in this case. *Moore:* I desire the whole Answer to be read. This was advised on by Counsel. Mr. Hutchinson, the inventor of these lights, makes several assignments, and they desire a Clause in the Orphans Bill. I desisted in the House of Commons, upon promises to be secured my parts. If the Bill, said they, be amended, it will fall; and we will carry it on there. I found the Bill attended here with the Mayor and others. Mr. Hutchinson had neither money nor acquaintance, and I thought it not fit to advance any. I told Mr. Hutchinson he must find somebody to solicit it. Mr. Hutchinson said I will give what I have; and he gave me authority to dispose of his share; and upon this I applied myself to Russell, and I told him my authority, and made him an assignment of it. We came to an agreement, and the Bill passed. Mr. Russell came to claim his share, and we are in Chancery now upon this matter. Mr. Russell gave no money for this share, not a farthing. He was to give his assistance in soliciting in Parliament and elsewhere. This share now, for it must be paid, is 640*l.* I do not now think it worth anything. I am out 1,100*l.*, and I will surrender for that money. *Mr. Samuel Hutchinson* was called in and sworn, and told that, as appeared by an Answer in Chancery, he conveyed over a share to make an interest in the House of Peers. No advantage shall be taken of what you say against yourself. He said, I gave a Note to get on to promote my interest in Parliament. I did not understand the practice of this Court, only to make the lights. The Note expresses my meaning. It is all expressed in the Note. I know no discourse but what was comprised in that Note. Mr. Moore has the Note. The share was to be disposed as Mr. Moore thought fit. It was left all to Mr. Moore. I think the share is worth nothing as managed. Mr. Moore told me he would make it advantageous to me. *Being asked* what discourse he had upon signing the petition, *answers*, Mr. Moore said he would make it advantageous to me. He did not name any Lords or others, and he said he would make an interest for me in this business. *Mr. Moore* (called in and asked if he had discoursed with Mr. Hutchinson

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when the Note was given): I had much discourse before five or six persons. The discourse was that somebody must be employed to solicit. I had this discourse, and told him he must do it, and, he not knowing anybody, he must employ somebody to solicit it. I was not refused by anybody. I have employed solicitors here and paid them, and I was not willing to lay down any money, There are solicitors which are not lawyers. Mr. Russell was to pay all sums charged on the share. He did not engage for to pay charges. This assignment was before the Bill passed. Mr. Serjeant Rawlinson and Sir Barth: Shore made the Agreement. *Asked* how he came to pick out Russell. *answers*, I had been acquainted with Mr. Russell several years, and he told me he could get the petition offered. He said he had prevailed with a lord to bring in a petition. We were told without that we should not be heard. Sir Tho: Millington told me they did not care a pin for me, and several solicitors told me I should not be heard. He only said he would use his endeavour to get the petition delivered. The Note Mr. Hutchinson gave me is with the Solicitor in Chancery, I said to Mr. Hutchinson it was to solicit in the House of Lords. One share in 32, as computed. We are to reimburse them *640l.* He is *ordered* to go and see for the Note. He recites the *contents* of the Note. The words are in the Bill and Answer. *Mr. Watley* called in and asked if he had the contract between Mr. Moore and Hutchinson. Answers, I never saw it. I have it not in my custody. *Mr. Moore:* I believe, then, it is amongst my papers. *Mr. Wattey*, asked where the Note is, says he has it not. *Mr. Moore* was ordered to fetch the original contract and Note for the disposing this share. *Roman Russell* is called in and sworn and told the House expects a free account of the whole truth concerning the Bill and Answer of him. He says, Mr. Moore I have been acquainted with several years, and he told me, I being acquainted with the Marquess of Normanby, I have a petition to be offered, and I will give you a share. I asked what a share was worth. He said, it is uncertain. He said I should have a share and [be] liable to pay the charges. I say, No, if you think fit to go on with it, you may, and you shall have the liberty to *quit*. We hope to settle this in several towns, and especially in Ireland. *If* they had given me 5 guineas I should have been *contented*. I went to my Lord, and told him the Petition was for a friend of mine. I desired my Lord Normanby to deliver the Petition, and Mr. Moore told me it would be a great advantage to him. He gave no account of his interest to anybody. The share was made over in writing by Mr. Moore. It is an assignment of a share. He is *ordered* to fetch the assignment. *Mr. John Robins* (asked what he knows of the value of the share of these convex lights): I have been told the value was 1,500*l.* when in 32 shares. I find in Mr. Moore's Cross Bill that Mr. Hutchinson had mortgaged two shares to Mr. Moore for 1,000*l.* There is an account of two other shares Mr. Moore has. Then an Order was made for the attendance of persons concerned, and Sir Tho: Millington and Dr. Hobbs were ordered to bring the contract between the City of London and the proprietors (MS. Min. 30 March; L. J. XV. 528).—On 1st April it was *moved* to call in Dr. Hobbs and to ask him concerning the Agreement with Hutchinson concerning the convex lights, and to give an account what he knows and what was told him they were obliged to make the Agreement with Mr. Hutchinson, and the reason of that sudden Agreement. *Thomas Hobbs* (sworn): I was sick, and Mr. Lilley came to me, and I desired him they would not agree. Sir Thomas Millington told him that the Agreement was

put upon them, and, if they did not agree, the Bill would be lost. He said that it was the L. Normanby told him so. I have no shares at present. I have assigned them to my wife's father. I had in my name three, one and a half my own, and a half one and one other. They were sold for above 1,000*l.* a share. Mr. Neale gave above, a pretty while before the Bill came into this House. We looked on Hutchinson to be a partner, and [he] was to have 10 shares when he had paid his contribution towards the charge. *Asked*, if he never said these lights were of little consequence, that he gave them over, *answers*, I said I was weary of soliciting, and I said if they would give me two or three shares I would not accept of them to have the trouble of them in troubling my friends. *Sir Tho: Millington* was called in and sworn, and told what Arthur Moore said of his threatening him upon the passing of the Orphans Act, and that he threatened some. He says, I never threatened any person When the Bill was in the House of Commons there was a discourse between Dr. Hobbs, Moore and myself; but, as to the House of Lords, I never remember I said anything with him. I do not remember 10 words with Mr. Moore. Mr. Sloane followed me about, and told me the Bill would be lost, and to that purpose. When I came here, the Agents for the orphans came to me and told me, if I did not sign a Deed to Hutchinson, the Bill would be lost; and the orphans fell on me and Mr. Sloane. There came out messages that if we did not sign the Bill would be lost. We did sign against our wills, upon the Lords' messages. The L. Marquess of Normanby told me so. *Asked*, whence or who brought those messages to him, whether any other lord did, he said, No, none by L. M. Normanby. Several said the same in the room, but not lords. I have one share. It stands me in above 1,200*l.* It has cost everyone above 800*l.* for carrying it on, besides the first price. Carrying it on is the money expended in glasses and lanterns and materials. I have been told the shares have been sold for 600*l.* apiece. I cannot tell how many years were in the Patent before the Act. I have heard say four years. I am a great stranger to the management of this business. *Asked*, if he gave Mr. Hobbs the account of what my Lord Normanby said, he says, Yes, I did tell Hobbs to that effect. He delivered the Agreement or Contract. I mean it was against our inclinations to sign it, only fearing the orphans would lose their Bill. *Mr. Roman Russell* delivered the writing as ordered on Saturday last. *Asked*, what was Mr. Hutchinson's interest, and what Mr. Hutchinson desired of the House; what was his pretences, and he to get, *answers*, I told the whole story Saturday. Mr. Moore told me I would do him a kindness if I could get the Petition read, and he heard by Counsel. *Asked*, if he knew the merits, *answers*, I was acquainted with the petition and the intent of it for him to be heard, otherwise he should be undone if not heard. *Asked*, What lord he spoke to except the lord he named, *answers*, I remember I spoke to some lords, but not to all I designed. *Mr. Moore* delivered the authority Mr. Hutchinson gave him to dispose of a 32 share, which was read. Moore's assignment to Roman Russell read. *Sir Thomas Powys* was called in and told they take notice of some expressions in a Bill and Answer in Chancery which seems to reflect on the House. He says, My name is to the Bill, but I did not sign it, nor put my name to the foul draft. It is frequently the custom of the Solicitors in Chancery to put the names of those that advise about the Bill. Mr. Moore did advise with me, and he set forth the writing whereby Hutchinson gave him power to assign over the share. He said Russell insisted one of Moore's

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shares assigned. He did assign one, and then he came to advise how to get his share again. He had no case without the setting forth this writing. They are the words of the writing, not of Counsel. *Asked*, who set his hand, *answers*, Mr. Wattey, he told me he had put my hand to it. *Mr. Sloane:* I was counsel for Moore, and he brought me the copy of the Bill, and desired me to draw the Answer. I told him I had not time. He brought me a draft with those words in it. He showed me it was the words of the paper. Mr. Wattey put my hand to the Answer, I having perused the same, as is usual in Chancery. *Sir Tho: Powys*, asked if he was at the Agreement, when signed, says, I was not present at it, and he and Mr. Sloane are dismissed. *Mr. John Lilley*, asked, when the Orphans Bill was depending there was a sudden agreement, *answers*, The reason was, we were constrained to do what we did. We had the orphans upon us, and pulled and threatened us. I did it not willingly. *Q.* What constrained you? *A.* The opposition in this House. The Petition of Hutchinson and Moore that gave us the trouble. Mr. Moore and Mr. Hutchinson and Sloane solicited us. Dr. Hobbs, I cannot tell whether before or since he parted with his shares. Sir Tho: Millington was pulled and tossed as we were, by the orphans. *Asked*, what he said to Hobbs, *answers*, *Dr. Hobbs* was sick a bed, and I told him how the matter stood, and he said, By no means; do not agree; and I told him I would not. I could not get away. I went and told Hobbs, We have signed the Deed; we were prevailed with to sign the Deed. He said he was sorry for it. *Ezekiel Hutchinson*, asked what he knows of the motives that prevailed with his brother to give Moore power to dispose of a share, &c., *answers*, I have heard he gave such a power. In the House of Commons I heard there was a Bill, and he gave Mr. Moore a Note to preserve his interest. I have heard him say he gave Mr. Moore such a power to preserve his interest in Parliament. I know not whether in the House of Commons or Lords. It was in Parliament. (MS. Min. 1 April; L. J., XV. 529.)—On 8 April *Mr. Clapham*, of Gray's Inn, is called in and told there was a Note before the Lords wherein Hutchinson impowers Moore to dispose of a share in the Convex Lights, upon such restrictions as you shall approve. He says, This Instrument I heard of last night. I never saw nor know any of it. *Mr. Hutchinson* is asked whether he acquainted Clapham with the contents of the Note to impower Moore to assign one share. He says Mr. Clapham was not at home, so he did not know his name was in. I told him his name was in it. I told him there was such a Note signed, but I had no copy of it. Mr. Moore drew up the Note. I had no Counsel. Mr. Clapham said I was a fool for not taking a copy of it. *Asked*, if he desired to have or see the Note, *answers*, I had no occasion for it. I do not remember I did ask Mr. Moore for it. *Mr. Moore*, asked whether he offered Mr. Russell first Mr. Hutchinson's share, *answers*, I did, and made an assignment of it accordingly. *Q.*, what he suggested the share to be worth when he offered it Mr. Russell? *A.*, I do not remember any particular value of it. I said, if the Bill passed, it would not be worth a farthing. Mr. Hutchinson has had but 29*l.* a share, one with another, the 22 [? 32] shares. *Q.*, what he was offered for his shares when the Bill was here? *A.*, I was offered 500*l.* a share, to be paid at Sir Francis Child's, and to have left a poor man. There are two Clauses in the Orphans Bill that concern these lights. By their books, there are great sums of money charged on us to pay to get an Act of Parliament. *Q.*, whether he drew up the Note? He says positively, no, he did not. *Hutchinson* is asked who drew up the Note? He says, I

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think Mr. Moore did. I do not remember. I did not understand the contents of it. Mr. Moore gave it me to sign. As much as I can remember, it was Mr. Moore. I directed nobody to draw the Note. It was done suddenly at a tavern in Holborn. There was one Nicolson, of Thistleworth, Mr. Windham and I and Mr. Moore. I saw Mr. Moore and Mr Windham write. They wrote what was fit for me to sign. I signed it there. Squire Nicolson advised me to sign it. I believe I read the Note before I signed it. *Mr. R. Chiswell*, asked whether when the shares were divided into 64 parts, he sold one of them, and for what, *answers*, I sold one share for 400*l.*, one of those 64, about midsummer last, after the Bill was passed. I sold it clear of all charge for that. *Asked* what Nowis and Smith told him, at the time when the Bill was depending, *answers*, I think both of them said there was some hazard of the Bill, and, unless the Instrument were signed, the Bill might be lost. In the hurry and being much pressed I did do it. They named to me no particular reasons. I did it in a hurry. *Asked* concerning a discourse with Borrett, the City Solicitor, *answers*, He said he believed the Bill would pass because the orphans had persons particularly concerned. They gave no particular instances of the persons. *James Smith*, asked what he offered Mr. Moore for his share or shares when the Bill was depending, *answers*, I cannot tell what I offered. I told him, if he would tell me what his shares stood him in, I would give it him. I was willing to buy him out, to have paid him so much as they cost him. *Asked* whether he gave Mr. Chiswell account the Bill was in danger of being lost, and that you were informed so from the House, *answers*, I do not remember any such thing. *Mr. Moore*, asked what sum Mr. Smith offered, *answers*, I said I was offered 2,000*l.* Mr. Smith came to me and treated with me; and I am sure he said four hundred, if not five, to withdraw my petition. *Mr. Nowis* is asked whether he offered to buy any shares for himself or any other person for the shares in the Convex Lights. *Mr. Russell* asked when Mr. Moore offered him Mr. Hutchinson's share first, *answers*, He proposed something of the patentees. I told him I did not know them. I asked if he had any. He said, yes. I said I would take that. This, to the best of my remembrance, was the first time I talked with him. He made no reserve at all of any part. (MS. Min. 8 April; L. J., XV. 532-3)—On 9 April *Mr. Nowis* was called in and told what he said should not be to his own prejudice, and *asked* what he did offer for any share in the Convex Lights to Mr. Moore or any other, and what. *Answers*, I never offered anything to Mr. Moore. Sir Tho: Millington thought it troublesome, and Mr. Smith offered to give him what the shares lost him out of pocket. *Q.* Whether he told Mr. Chiswell or others concerned that he was assured the Bill for Orphans would not pass? *A.* There was a dispute in a room for Mr. Hutchinson to have a Saving Clause. There was an Agreement made and signed. I was not privy to the Agreement. I believe I may have said some such word. *Q.* What reason he had to believe it would not pass? *A.* I am not certain. I was informed, if the Saving Clause was put in, it would not pass. The Lord Normanby came out and discoursed it there with them. Sir Tho: Millington, Sir Wm. Prichard and others were there. *Q.* If he had any other motive than what he heard as aforesaid? *A.* I had no other reason than as to the Saving Clause in the Bill.* *Moved* to call in Mr. Russell and ask him what he knows of any lord's having any piece of ground from the City. A debate arose. M. Normanby was

* A Summary of the above examinations is given in L. J., XV. 547-8.

1695. — No. 926. heard as to a piece of ground he has of the City to build a house upon.* Then Mr. Lane, the City Comptroller, and several others were ordered to attend. * * * * The House being informed Mr. Lane was come it was *agreed* that what questions were to be asked should be writ down and approved of by the House; which was done, and he was called in and sworn and examined upon the several questions read to him by the Lord Keeper. Which being ended he was told, by Order of the House, he must bring the Paper he mentioned he took in Characters some discourse concerning the lease granted to M. Normanby (*see* L. J., XV. 549. 5th Question). Then the Town Clerk and Comptroller of the City were ordered to bring Books and Papers concerning the lease (MS. Min., 9 April; L. J., XV. 533–4). The questions and Mr. Lane's Answers are set out in L. J., XV. 548–9. On 10 April, *John Goodfellow*, the Town Clerk, delivered the Books ordered to be produced. *Augustine Ballow* was heard to several questions asked him out of the questions agreed on yesterday (*see* L. J., XV. 550). *Mr. Lane*, asked whether he had brought the Paper, as ordered yesterday, says, I have the Paper, and *produced it*, and he read the Paper. 25 June /94 I was ordered *to wait on my* Lord Normanby, with a Paper agreed by the Committee, and if he thought fit to agree to that, that might be the agreement. I acquainted his Lordship the Committee met and agreed the substance of the Paper. It was drawn up and perused by Sir Robert Clayton, and I was to attend my Lord with it. The usage of the Committee is that nothing be delivered out until agreed to and entered in the Orders. My Lord said the Committee had been long. When my Lord perused it, he had displeasure about the arrears to be paid. My Lord said there was faults in the last Paper. He says he was acquainted by Sir Robert Clayton it was mistaken. My Lord excepted against the covenant to procure an Act of Parliament. My Lord said, to procure an Act of Parliament was void. *Moved* that Mr. Maurice be called in and examined. *Proposed* to examine him at a Committee. *Ordered* the Books be searched for Precedents concerning the methods of examining Members of the House of Commons, and a Message for the attendance of Sir R. Clayton and Mr. Maurice was sent to the *Commons* (MS. Min. 10 April; L. J., XV. 535). On 11 April, the Clerks gave the following Precedents:—16 March 1620. Read. 18 Jac. 17 March. Message from Commons read. 19 March. 20 March. 20 Jan. 1666. The Lords desire Members to be witnesses. Then a Select Committee† was appointed to examine Sir R. Clayton and Mr. Maurice, and examined the latter and reported his examination to the House. A number of members of the Committee for City Lands were summoned to give evidence before the Select Committee (MS. Min.; 11, 13 April; L. J., XV. 536–7, 550; Com. Book 11 April). On 13 April the witnesses were sworn at the Bar, and the examinations of Sir Robert Clayton, Sir Patience Ward, Sir Edw. Clarke, Sir Rich. Levet, Sir Tho. Abney, Mr. Buckingham, Mr. Cuddon, Mr. Dorville, Mr. Aldersey, Mr. Eyre, Mr. Roman Russell, and Mr. Whitehead were taken by the Select Committee. The House ordered Mr. Harrison and Mr. Phillips, who audited the last accounts of the City as to the City Lands, and Mr. Deputy Gardiner to attend (MS. Min. and Com. Book 13 April; L. J., XV. 539, 540). On 16 April John Kirkham and Edmond Harrison were examined by the Select Committee, which had been

* Here follows an expunged entry "Mr. Russell was called in."

† The Depositions taken by this Committee, to attend which the House was from time to time adjourned during pleasure, are set out in L. J., XV. 550-6.

revived on the previous day ; and on the 17th Thomas Gardiner (MS. Min. 15 April ; Com. Book 16, 17 April). On 17 April the Town Clerk delivered in the Auditors' reports for 1691 and 1692, which had been ordered the previous day (L. J., XV. 541, 543) and they were read (MS. Min. 17 April), and E. Rochester reported from the Select Committee the several examinations taken by them (L. J., XV. 550–6 *in extenso*). — On 18 April the House went into debate on the Report from the Committee. M. Normanby was heard and withdrew, and the Lords went on with the debate.* *Moved* that the several places in the City Books be read. *Moved* that M. Normanby be called in ; and, he being come in, the several passages in the City Books offered to be read. He was heard in his place. The several places in the City Books were read, in three several books. M. Normanby asked leave to withdraw, and did so. *Moved* that the Question before proposed (*see* footnote) be put. Then this Question was proposed, Whether upon the Examinations taken (&c., as in L. J., XV. 546) there does appear any just cause of censure from this House upon the said L. Marquess of Normanby. It was resolved in the negative. Leave given to protest, and three days allowed so to do. (MS. Min. 18 April.)

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On 29 April the House was moved to inspect the Protestation lately made in the case of M. Normanby, 18th inst. (L. J., XV. 557–8). *Moved* that it be inspected by a Committee in what manner and place the said sheet of the Protestation shall be entered. A Select Committee was appointed accordingly (MS. Min. 29 April ; L. J., XV. 581).—On 30 April, the Select Committee met and considered the sheet pinned in by the Clerk of what was said at the Bar by the witnesses and not then put in writing. Ordered to report that the loose sheet of paper, 18 April inst., ought to be agreed in the House to be the subject matter of what was said at the Bar of the House before it be entered in the Journal (Com. Book 30 April). On this Report being made, the loose sheet was read in the House, and one amendment being made, and a Preamble therein, and it was ordered to stand in the Journal with the Preamble and Amendment added to it. (MS. Min. L. J., XV. 583). *See also* No. 822.]

927. April 6. Thames Act (6 & 7 Will. III. c. 19 in Long Calendar).—Order of the Court of Sewers for Berkshire and Oxon, held at Abingdon on 26 May 1681, before

Sir John Stonehouse, Bart.
Sir Robt. Pye, Knight.
Francis Pigott, Esq.
Brome Whorwood, Esq.
Richd. Southby, Esq.
Tho : Fettiplace, Esq.
Michael Malet, Esq.
John Lamphire, Doctor in Physic.
John Wickham, Gent.
John Peacock, „
Paul Calton, „
Wm. Wright, „
James Heron, „
Francis Greenway, „

* Here follows an expunged entry, viz., "Moved that this be the Resolution, That a Peer who presumes to deliver the opinion of this House without doors to any persons whose cause has been pleaded at this Bar, so as to induce him to compound his interest, or to fright him to compound his interest, or fright him into unwilling compliances, does [illegible] obstruct the course of public justice in acting against his duty and the honour of this House." (Compare the 1st paragraph of the Protest, L. J., XV. 557.)

1695. — No. 927. Commissioners. Rice Watkins and his fellow Jurors. Upon the Petition of John Tomkins, Philip Lockton, Nicholas Culley, John Rush and Nicholas Hooper, Boatmasters trading on the Thames between Abingdon and Staines Bridge, showing that the Thames had been freely navigable time out of mind from Birket to London, and for over 50 years from Oxford to Birket, and the Court of Sewers had kept the river cleaned and fixed the lock dues; and that divers millers and occupiers of locks, &c., have been too exacting in their charges, the Court finds that the lock dues fixed by former Courts are the following:—

Whitchurch Locks and Turnpikes	2/-
Mapledurham Lock	1/8
Caversham Lock	2/-
New Mill Lock	-/6
Little Witnam Lock	1/-
Bensington Lock	-/10
Cleeve Lock	3/-
Goring Lock	3/4
Sunning Lock	1/8
Hambledon Lock	1/-
Hurley Lock	-/8
Marlow Lock	-/8
Boulter's Lock	1/-

and these it confirms, with a penalty of 40*l.* for any overcharge. *Examined* by Christopher Blowers, Clerk of the Sewers for the Counties aforesaid. [Produced this day by Sir Ralph Dutton in Lords' Select Committee on the Thames Bill, and read. Com. Book.]

928. April 8.—Vaughan *v.* Humphreys (In Error).—Writ of Error and Transcript of Record, &c. brought in this day. L. J., XV. 532. Humfry Vaughan was sued by Humfry Humphreys and Bridget his wife for a debt of 70*l.* for board and lodging due to Bridget when a single woman. *Parchment Collection.*

929. April 8.—Cooke's (East India Company's Funds *Discovery*) Bill.—Commons' Engrossment of an Act to oblige Sir Thomas Cooke to give an Account to whom he paid and distributed several sums of money therein mentioned to be received out of the treasure of the East India Company. It is as follows:—Whereas it appears by the books of the East India Company that Sir Thomas Cooke in the year 1693, being the governor of the said Company, did receive out of the stock and treasure belonging to the same, the sum of 77,258*l.* which he hath corruptly and by undue practices distributed and employed amongst several persons, under pretence of obtaining a charter or other settlement for the said Company, to the great discouragement of trade and prejudice of the Commonwealth of this kingdom, and contrary to the known laws thereof, and hath also received out of the stock and treasure of the said Company the further sum of 90,000*l.*; and having been interrogated and examined in his place as a Member of the House of Commons, how and in what particular manner and to whom the said several and respective sums have been disposed of, applied, and distributed, he the said Sir Thomas Cooke, contrary to his duty, hath wilfully, obstinately, and contemptuously refused to answer and discover the same, to the great encouragement of offenders in cases of the like nature: Be it therefore enacted, &c., that if the said Sir Thomas Cooke shall not at or before the 1st day of June in the year of our Lord one thou-

sand six hundred ninety-five make a full and perfect discovery upon oath to the Commissioners appointed for stating and taking the public accounts of this kingdom (which oath the said Commissioners or any four of them are hereby impowered and required to administer), how and in what manner and to what person or persons and to what particular uses, intents or purposes, and on what account the said several and respective sums of 77,258*l.* and 90,000*l.* have been distributed, paid, applied, disposed, or made use of, that then and in such case he the said Sir Thomas Cooke shall from thenceforth be hereby disabled to have or execute any place or office within the kingdom of England or Ireland, or any other of his Majesty's dominions, or to serve in parliament, or receive any gift or grant from the King, and shall be accountable and is hereby adjudged debtor and answerable to the said Company and their successors for the said several sums of 77,258*l.* and 90,000*l.* : And all the estate, real and personal, which he hath or shall acquire, is hereby charged with the same, and shall also forfeit and pay to the King the sum of 20,000*l.* to be paid into the Chest at Chatham for the use of the sick and wounded seamen. Provided always, and be it enacted by the authority aforesaid, that if the said Sir Thomas Cooke shall on or before the 1st day of June, one thousand six hundred ninety-five make a discovery upon oath to the Commissioners appointed for stating and taking the public accounts of this kingdom how, and in what manner and to what person or persons, and to what particular uses, intents and purposes and on what account the said several sums have been distributed, paid, applied, disposed or made use of, that then he the said Sir Thomas Cooke shall be and is hereby declared pardoned and indemnified for any crime he may have been guilty of in the distribution, payment, application or disposal of the same, to any person other than to himself. Provided also, and be it further enacted, that if the said Sir Thomas Cooke shall account before the Commissioners of Accounts for the several sums before mentioned, the said Commissioners, any four or more of them, are hereby required to deliver the same in writing under their hands to both Houses of Parliament, at their next meeting. *Parchment Collection.* [Brought from the Commons this day. L. J., XV. 532. *See* Note to next Paper.]

930. April 9. Sir Thomas Cooke (East India Company's Charter). —Petition of Sir Thomas Cooke. The House of Commons have sent up a Bill [*see* preceding Number] which is of a very new and extraordinary nature and of great concern to Petitioner. Prays to be heard by Counsel against it. L. J., XV. 534. The MS. Min. supplement the Journal in the following particulars :—On 9 April, on the Order for hearing Petitioner on the above Petition, all the Lords were summoned to attend.—On 12 April Counsel called in for Sir Thomas Cooke and heard against the Bill : *Sir Thomas Powys* heard against the Bill (1) from the nature of the Bill in general (2) from the particular parts of the Bill. We hope your Lordships will think fit to reject this Bill. The laws of England are known. Our books tell us how happy we are that our laws are known. If the Legislative Power take up actions past, our case is different, and men can never say when they are safe. It is so new, there is no precedent tends to it in any book. This will remain, as it is penned, a charge on Sir Thomas Cooke for so great a sum. There are but two ways of convicting a man, either by indictment or impeachment. He is foreclosed of making an honest disposition of the money by the words of the Act. This Act enforces him to undergo the ruin of his affairs, unless he accuses himself, and that

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upon oath. He will appear guilty of a very foul offence by his own oath. The confession, by the Bill, is to be his punishment. We hope you will put a stop to all beginnings of this nature. Shall the Commissioners be the judges whether he doth make a full and perfect discovery? By his office, he is under a trust; and, by this Bill, he is to disclose his trust and destroy the Company. *Sir Bartholomew Shore* heard against the Bill. This we say is new in the whole, in every part of it. It is of a private nature. It is brought without any complaint whatsoever. It is a plain declaration in Parliament of his corruption, without hearing. The condition is impracticable. *Moved* to read the Bill a second time. After debate, the Question was put, whether the said Bill shall be now read a second time, &c., as in L. J. In the Message to the Commons the request for Papers was at first worded: "and they will transmit to this House the proofs they have had which induced them to proceed on the Bill." On 16 April, on which day the House was to go into Committee on the Bill, it was agreed to ask Sir T. Cooke, when called in the following Question: That he hath an opportunity to prevent the inconveniency that may fall on him by the passing this Bill by his discovery to whom he distributed the several sums of money mentioned in the said Bill. He was called in and told by the Lord Keeper as above. *Sir T. Cooke* said: The facts in the Bill are not made out. I would freely make a discovery if I had an indemnity. I am advised by Counsel I am in greater danger without an indemnity than I am if the Bill pass; and if I have an indemnity, I am ready to declare what I know. He withdrew. *Proposed* that he explain himself. He was called in again, and told he must explain himself as to the particulars in which he would be indemnified. *Sir T. Cooke:* The indemnity I desire is this, that, if I discover to whom I paid these sums, I may not be liable to any action or thing of that nature laid on me; and that the Bill may not be a reflection of [on?] me except proved; and then I desire I may suffer. As to the corruption and the crime mentioned in the Bill, [it] has been no ways proved against me, nor cannot but by my confession. *I* was denied a promise of indemnity in the House of Commons. *I desire only* to be indemnified. *Q.* What he meant by indemnity *against* action, whether the East India Company or other actions? *A.* I desire I may be indemnified against all actions but the actions of the East India Company. If I am guilty to the East India Company, I desire ten times as much laid on me as in the Bill. *Moved*, That a Committee be named to draw a Bill to the purpose Sir Thomas Cooke mentions, to indemnify if discovers. (MS. Min.) At the meeting of this Committee this day, the Order of Reference is read. The Judges appointed to attend withdraw to draw the Bill. Question proposed, That Sir T. Cooke give account, upon oath, at the Bar, on or before the 23rd, how he has distributed the sums. *Sir T. Cooke* asked whether in three or four days provided he has the indemnity he has desired, he can be ready to give account of the sums mentioned in the Bill. He says he cannot, for, under the circumstances he has been in, he has removed his papers, so as he cannot readily come at them. He hopes three or four months may not be thought too long a time. For the sum of 90,000*l.* he can give an immediate account. That is in his books. But for the sum of 77,258*l.*, he has kept no account in books. For that he must look over loose papers. He withdraws. After some time, he is called in again, and told that my Lords have been disposed to be favourable to him upon the expectation they had he would be ingenuous to them, upon his having the indemnity to him. *Sir T. Cooke:* To give an account

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of the main of the 77,258*l.*, viz., of thirty, forty, fifty, sixty thousand pounds, if I may have liberty I can do it in ten days. I'll endeavour to do it sooner. He withdraws. After debate, he is called in again and told, That my Lords think this day sevennight a proper day for you to make your confession. He says, for the majority, it shall be done, as for fifty, sixty, or seventy thousand pounds, or near that; and for 90,000*l.* you may have account now or when you please. He withdraws. He is called in again, and told that for 70,000*l.* he must give account this day sevennight; and for the remainder he shall have further time to clear himself. He says he believes he may go between sixty and seventy thousand pounds by that time. He cannot be positive so much as 70,000*l.* came to his hand, but what came to his hand he will account for. He shall be ready by Tuesday next to give an account of all those sums, for which he shall desire an indemnity. He says he will then give account of 67,000*l.*, part of the 70,000*l.* And for the 90,000*l.* he will give such account as the Company shall think sufficient to discharge him. He says he must desire several months' time for the remainder of the 77,250*l.* He also desires leave to go home to peruse his papers. He withdraws. Ordered the same be reported to the House. [The Report was made, and a Message was sent to the Commons for leave for Sir Thomas to go and inspect his papers. Then the Committee sat again. L. J., XV. 541.] The Judges offer a Draft of a Bill (Annex *b*) which is read entire, and afterwards by paragraphs, and after some amendments, ordered to be reported. (Com. Book, 16 April.) After the Indemnity Bill had been read 1ª and 2ª, the following expunged entry occurs: "*Ordered* to be committed. The question was put, Whether? *Moved* to call in Sir Thomas Cooke and let him know the House is informed he is desirous to give an account of the 90,000*l.*" In C. W. H. on the Indemnity Bill, E. Bridgewater in the chair, the only amendment was the addition to the Title of the words "or from any prosecution for such distribution." On 17 April, after the addition of a Rider to the Indemnity Bill, on 3rd Reading, the word "true" was inserted in the Bill. On 19 April the Indemnity Bill was returned from the Commons agreed to with amendments, which were agreed to except the Clause marked A. The question was put whether this House shall agree to the Clause A. and resolved in the affirmative. On 22 April occurs the following expunged entry: "House moved to know whether Sir Thomas Cooke's Bill shall be offered to his Majesty as a Public or Private Bill. The Judges present read over the Bill. *Ordered* that it be presented as a Public Bill." * * * *Ordered* that the Lord Great Chamberlain prepare a room for the Committee of both Houses to sit in. The House was informed that the Exchequer Chamber is prepared for that purpose, to which the House agreed. The Votes given by Ballot for 12 Lords to serve on the Joint Committee to examine Cooke are as follows:—

D. Shrewsbury, 46.	L. Privy Seal, 31.
E. Bridgewater, 46.	E. Torrington, 31.
E. Manchester, 27.	E. Thanet, 26.
E. Rochester, 42.	V. Weymouth, 30.
E. Marlborough, 26.	L. Cornwallis, 42.
E. Monmouth, 37.	L. Godolphin, 26.

On 23 April, after the 1st Message to the Commons, *Moved* that the Lords of the Committee withdraw to think of what may be fit to be done at the Committee of both Houses. Agreed to. House adjourned during pleasure. House resumed. E. Rochester, from the

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* The proceedings of this Committee are recorded in a Book entitled "Committees of both Houses," which contains also the proceedings at the Joint Committee on the trial of the Five Lords in the Tower, given in Tenth Report, pp. 30 *et seq.* This Book is referred to above as "Joint Com. Book."

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customary thing formerly. In other reigns 10,000*l.* a year had been given. A letter of 13 Nov. /92 from Child and Tyssen to him about the 10,000*l.* was read. *Q.* Who received it? *A.* Tyssen said he delivered it to Sir Josiah Child, and Child delivered it, as he has been told, to the King's own hand. I advanced it, and had it not again till April /93. This is the first 10,000*l.* He had it in Tallies. Acton's money was about the same time. Acton said to me he had several friends could be serviceable in speaking to Parliament men. The end was to get an Act of Parliament. He knows none of them, nor knows any man to whom any part of it was given. *Q.* Whether any account was required of Acton? *A.* He knows not that any was required or given. He told the Company if they required any account, he would give it. Mr. Richard Acton would give account of it. He knows no man had a penny of it. *Q.* Whether Acton said he could distribute it amongst members of Parliament? *A.* Acton said he had several friends that would speak to Parliament men. He says he never would know how it was distributed. *Q.* Whether the Company gave him a power to give it others to distribute? *A.* He believes he had such power. The inducement to lend the money was that we were going to be ruined. We hoped by this means we should secure ourselves. In November he believes there was a Bill for another East India Company. Acton advanced the 10,000*l.* himself, and was not repaid till several months after. Acton, he believes, disposed the whole 10,000*l.*, and the rest for his pains and charges. Acton told me he could tell me of some persons he employed, but —— *Q.* Whether Acton is not so crazed in his brain that he cannot give account? *A.* He believes he is not able to give account, that is, he is afraid so. But yet he does some business. My meaning in giving the account to the Company was only that Tyssen and Acton had it. *Q.* Whether this 10,000*l.* was to be laid out in Parliament for promoting their business? *A.* He does not doubt it. He believes it. *Q.* Whether it was distributed in one or both Houses? *A.* It was never further than the Commons. They had no good fruit from that distribution. Acton has all along had 10,000*l.* or 20,000*l.* in the Company. *Q.* Whether he gave 10,000*l.* to Acton on his own head or with the privity of others of the Company? *A.* He did it with the privity of Sir Jos. Child. Acton had told—Child junr., he had a great acquaintance with Parliament men, and others that had interest with Parliament men. He withdraws. He is called in. The first enacting Clause is read to him. *Q.* Do you know any of the persons Acton was to employ? *A.* He knows none of them. He did not think it would have [been] proper to have asked Acton an account at this time of day. If he had thought it proper, it must have been when he disposed the money. He thinks he has given an answer. *Q.* Why he so much desired indemnity? *A.* He desired indemnity because the Bill sent up by the Commons had so great pains and penalties in it. As to Molyneux's 338*l.* 7*s.* 6*d.*, he supposes it was disposed about the same time. He told me my Lord Colchester was capable of doing service. He was his friend, and this was to be disposed to him. Molyneux has been with me since I was in my trouble, and told me all he then said was a wrong thing, and my Lord never had it, and he had made use of it himself. Tyssen must give account of it himself. He knows nothing of it. It was about same time with Acton. Sir Jo: Sherdon told me he had expended near this sum on the Company's account. He had been long in the Company, and therefore I gave it him; and he kept it himself, he believes. Sir Paul Duckney said he had expended it, and

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I know not any man had it. Capt. Jo: Jermin was great with the Interlopers, and told me he had lost 600*l.* or 700*l.* in upholding them; and, if I would give him half of it, he would serve the Company and come into our interest. Fitzpatrick said he had great interest in my Lord Nottingham, and with that sum he doubted not but he could do us great service. There was a promise of a further sum if he succeeded. Bates—That was to be paid about the time the Charter was settled. He had little acquaintance with him, but Sir Basil Firebrace told him he could do great service. He was acquainted with several lords. Firebrace named my lord Duke of Leeds, then Lord Carmarthen, as he remembers. There was no promise of any further sum. As to Sir [Basil] Firebrace's 10,000*l.*, I believe he kept it himself in consideration of the losses he had. It was paid him about November /93. It was in consideration we had an expectation of a Charter. There were contracts between him and them. Sir [Basil] Firebrace never would tell me to whom he distributed the 30,000*l.* He demanded this money in January /93. when the Charter was settled. If we had had no Charter, he had not had it. The Contracts were all at one time, and he had the money all at one time. He produced and read one of the Contracts, dated 19 September /93. *Q.* Whether he knows or heard of any person that has had this 30,000*l.*, or part of it? *A.* He knows none. He asked Sir Basil Firebrace particularly, and he would not tell him. He knows nothing more of this than any person here. He says Firebrace never gave him any account. He says the money was not paid to Firebrace, but he thinks it was paid in 6 sums, that is 5 (? 6) times 5,000*l.*, viz., to Fowles and Wootten in January, 10,000*l.* and 10,000*l.*, and 5,000*l.* to Edw: Allen, a scrivener in Birchin Lane, and to Nathaniel Hornby, goldsmith, 5,000*l.* They subscribed these. This was in lieu of the stocks. The 16,000*l.* Firebrace has in the stock is no part of this money. The sum of 30,000*l.* was agreed at one time. *Q.* Why not in one order? *A.* He knows not but he might distribute it to several people. Firebrace subscribed 10,000*l.* in his own name. *Q.* Whether he ever asked these persons for whom they subscribed these sums? *A.* He never asked them. The new subscription began in November and *ended* 10th January. (He withdraws. He is called in again.) The 90,000*l.* was stock the Company bought to make good the money that was to be paid to Firebrace. This was bought in December '93. No one of these sums in the Paper belongs to himself. The persons of whom the stock was bought have transferred it to other persons for the Company's use. He reads a counterpart of a Contract. *Q.* Whether you have given money or stock yourself for procuring Charter or Act of Parliament? *A.* He knows not that he ever did, or that there was no [any] occasion for it; unless it were for the charge of the Charter. Sir Basil Firebrace has not discoursed with him about concealing any matters. *Ordered* That the Clerks draw up what shall be presented to both Houses against to-morrow morning, and present it to the Committee.—On 24 April the Report prepared by the Clerks is read, amended and agreed to (Annex (*e*) below. Joint Com. Book, April 23, 24). The same day L. Privy Seal reported from the Committee of both Houses as follows: Sir Thomas Cooke's Paper (L. J., XV. 567–8) which he delivered them, upon which several questions were asked him; and then he read the Report, That Sir Thomas Cooke being called in and sworn, he represented the case of his imprisonment. The Committee told him they were of opinion that if he made a full discovery he might be discharged; and then read Sir Thos. Cooke's Paper;

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which ended, Sir Fleetwood Sheppard was asked an account of the Order for attaching Sir Basil Firebras. He says he sent to his house the last night; and he was not at home; but they said he would be here the next morning. E. Rivers moved that Nath: Molyneux do forthwith attend this House. Ordered. *Ordered* that Sir Basil Firebras his Warrant made yesterday be filled up with power to search houses. The House was informed of the great dissatisfaction the Committee had of Sir Thomas Cooke's behaviour at the Committee, and that he trifled with the Committee, as by the account. *Moved* to declare that the account Sir Thomas Cooke has given is not a satisfactory account. A letter was produced from Sir Basil Firebras to acquaint the House that he is ready to attend if this House will please that he may not be in custody. *Agreed* That E. Rochester intimate to the servant of Sir Basil that he believes, if he come presently, he will not meet with the Gentleman Usher. *Moved* that when any person comes to be examined in this House, that they are examined before the Committee of both Houses. *Moved* to have a Conference with the House of Commons, &c., as in L. J., XV. 568–9. The same day the new Joint Committee, appointed to examine the persons mentioned in Cooke's Report, met, L. Privy Seal, Chairman. The Orders of both Houses, of this day, appointing Committees of both Houses to meet to hear and examine Sir Basil Firebrace and others, were read. The Oath administered to the persons sworn at the Bar of the House of Lords is read, as follows:—The Information you shall give to a Committee of the Lords and Commons and the answers you shall make to such questions as shall be asked of you by the said Committee shall be the truth, the whole truth, and nothing but the truth; So help you God. *Sir Basil Firebrace* (sworn at the Bar of the House of Lords) is called in, and the Oath he took there read to him. He is asked the manner how he disposed of the 40,000*l.* in Sir Tho: Cooke's Paper. *Says* Sir Tho: Cooke applied to him to join interest with the Company. I told him I could not, because contrary to an interest I was in. He told me if I would come into the Company's interest, I should have 100,000*l.* stock for myself; and I at last complied, and we entered into contracts. This was on my own account, without any promise, or on the account of any other person. The difference amounted to 30,000*l.* I had it not for nothing. The Agreement was made in '92, a year before the Charter. *Q.* Whether it was all for himself, or any of it for any other? *A.* It was all for myself, and for no other person. I got 30,000*l.* by the stock, and 10,000*l.* to make up my losses. I gave not a farthing towards a Charter, or an Act of Parliament, nor promised anything. I was in another interest, and Sir Thomas desired me to leave that interest and to come into the Company. *Q.* Whether Sir Thomas Cooke desired him to tell him how he disposed the 30,000*l.*? *A.* He did, and I told him it was an unfair question to ask me. The thing was my own, and what had he to do to ask me how I disposed it. *Q.* Whether in the contracts there be any premiums mentioned, and whether he paid any? *A.* I gave him notes under my hand. *Q.* Whether the premium of 300 guineas? *A.* The contracts of covenants were all paid. All the premiums in the first agreement were paid. Contract Sept. '93, the premium was 300 guineas. I cannot charge my memory. There were two notes, one for three, the other for two hundred guineas. I did pay; but, after Sir Thomas kept it some time, he gave it me again. (He withdraws. He is called in.) Our agreement was not to procure a Charter. *Q.* If the Charter had not passed by such a day, had you

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paid down their money, but he did. Sir Basil secured the money to him. The contract between him and Sir Basil is to be found in the East India Books, and he has heard the same of Fowles. He is dismissed. *Mr. Fowles*, called in, delivers in the account (directed last night), which is compared with his Book and subscribed by him. He is directed to bring his Cash Book. Then the Committee ordered Mr. Hornby's Cashier [Robert Phillips] Mr. Fowles and Thomas Farmer to attend with their Cash Books, and Mr. Ince with the Minute Books relating to the Interlopers, and Michael Godfrey and Abraham Wilmer to be examined. Then, the Committee being informed *Sir Basil Firebrace* had something to say to them, he is called in. He says he was in great disorder last when here, and he is afraid he gave offence by multiplying words. He desires what was asked him then, and what answered by him, may be read to him. After his withdrawing and being called in again, he is asked whether he has directly or indirectly given or promised by himself or others any money or stock, or knows any other that has so made interest for procuring a Charter or Act of Parliament. He says he has given none himself directly or indirectly. He has been told, and believes Mr. Bates had money of Atwood. The whole sum was 5,500 guineas. He received it at twice. £.2,500 was paid after restoring the Charter. The other after. When the stock was given at 100, it was worth 150. He transferred no stock to any person. He believes he offered the stock to several, but none of them accepted it. Notes were written by Atwell payable to the Bearer. I put the notes in Bates' hands. I think Sir Tho: Cooke gave them me. I found a stop in the Charter. I found Bates had an interest with noblemen. He said, if he dealt with me, it should be for himself; and if the thing were not done, he should have the money again. The note was put in his hand by Cooke. Sir Tho: Cooke knew how he was to dispose of the two notes. Bates would never tell me who the money was designed for. These notes were no part of his 40,000*l.* He knew Bates had an interest in L. President, D. Newcastle, L. Leicester, L. Mulgrave. He believes he named to Cooke Bates having interest in other Lords as well as President. Sometimes I thought my Lord Nottingham, sometimes my Lord Privy Seal, sometimes others, stopped the Charter. He knows of no more than 2,500 guineas and 3,000 guineas paid Bates. Fitzpatrick was promised 1,000 guineas. It was not to give my Lord Nottingham, but he pretended to get information from the Lady Derby and other Ladies how the Queen's inclinations were. He was promised 10,000*l.* more if the Act passed. He intended it for my Lord Nottingham, but my Lord rejected it. There was a note of 50,000*l.* lodged with Tyssen if an Act passed.* It was not to be paid till an Act passed. He made, as he told me, an offer of it, and it was rejected. Tyssen had the note a year. 1,000 guineas were to be given to Ward and Faulkner, who made great opposition. This was to be paid upon the arrival of the ship 'Seymour.' It was Sir Wm. Pritchard and Dr. Radcliffe that accepted the stock he offered. He knows not but they paid their money. They that were no Members of Parliament had the same advantage with those that were. He knows no Members that paid not in their money. He has heard my Lord Colchester paid not in his money; but he knows the contrary. There were no other terms between Sir Tho: Cooke and me about the 30,000*l.* than were in the Charters. He knows nothing of the distribution of the money by Acton. He would never meddle

* Here follows an entry, very carefully obliterated, which appears to read "He took it to—to L. Portland. He used to go to L Portland."

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him they had interest in them. If the Bill had passed for a new Company, he was not to have had the money. Mr. Crags had part of it. Mr. Wallis, Mr. Ridley, Mr. Docminique and Mr. Goldman had other part. He cannot say he named any man particularly to Sir T. Cooke. He withdraws. *Ordered* That Mr. Edward Ridley and Mr. Paul Dominique attend to-morrow at ten to be sworn at the Bar, and attend the Committee immediately afterwards, to be examined. *Mr. Powell* is called in. Says he has had dealings with Sir T. Cooke to 100,000*l.* That he employed me to speak to Ward, Firebrace, Colston and others of the Interlopers, that there might be a reconciliation amongst them. I occasioned two meetings between Cooke and Firebrace; but I always [with]drew at the meeting. I understood afterwards by Sir Basil that he had some terms to make with Sir T. Cooke. Sir Basil once said to me that, whatever bargain he had made, he would be accountable to nobody. Sir Basil, upon my asking him what I should have, said I should have 500*l.*; and about two months since he gave me a Bill for 530*l.*; and he never had more. As to East India Stock, I have bought fifteen, twenty, or thirty thousand pounds stock, and had always Sir T. Cooke's contract to have it, my money, again at six months' end if I pleased. I appointed one meeting for them at the King's Head Tavern in Fanshaw Street, where they being discovered by Ince, Solicitor to the Interlopers, Firebrace was turned off by the Interlopers, because they suspected they had been treating. Sir Basil never told me of any particular person he gave any of this money to. He has said in general it cost a great deal of money to get the Charter. He withdraws. *Sir Basil Firebrace* being, at his own desire, called in, proposes he may return to his own house and take physic to-morrow, and have time to recollect himself. Says he hopes he shall be able to give a more particular account of what he has already informed. *Ordered* that he may go to his own house in custody of the Black Rod or his Deputy and attend again to-morrow at 11 a.m. All persons appointed to attend this day, except Mr. Hornby, *ordered* to attend tomorrow at 8 o'clock. Adjourned till 9 a.m. to-morrow. (Joint Com. Book, 25 April p.m.)—Then, in the House, *Moved* That Sir Basil Firebrace be kept in close custody. Sir Fleetwood Sheppard was called in and told that Sir Basil Firebrace has his liberty. He was charged to take care that he converse with no person, and so charged to take care of [him]. Then the Order as to Firebrace (L. J., XV. 570) was made. A Message being received from the Committee of both Houses to acquaint them that, Mr. Acton having behaved himself very modestly before the Committee, he be discharged from the attachment he lies under, and that he attend the Committee tomorrow 10 o'clock, *Ordered* That Mr. Acton have leave to lie at home, &c.; as in L. J. *ib.* Then Ince, Mr. Robert Phillips, who was Hornby's Cashier, Farmer and Wilmer were sworn, and the Order for Mr. Bates (L. J. *ib.*) was made—(On 26 April the Committee met and adjourned for half an hour. Joint Com. Book). The same day Mr. Charles Bates was sworn at the Bar to be examined at the Committee, and it was *ordered* that he be attached. Edward Ridley and Paul Dominique were also sworn, and, after the order for Parker and Peter to attend (L. J., *ib.*), the House adjourned till twelve o'clock this day. (On the Committee resuming, *Thomas Wootton* produces Mr. Fowles' Cash Books, which are perused. *Bates* says Sir B. Firebrace desired him to use his interest to have the Charter. I used my interest to my Lord President about it. My Lord said he would do me all the service he could, and he has been a friend to me on several occasions. I had

1695. No. 930. 5,500 guineas in three notes, one note for 2,000, one for 2,500, one for 500.* I had all the notes from Sir Basil at one time. Then Mr. Robart was ordered to attend to be sworn at the Bar and then examined by the Committee. Then follow, in the margin, three Orders, (1) That all persons sworn at the Bar before 12 o'clock yesterday be sworn at the Bar at 12 to-day and then attend the Committee forthwith to be examined; (2) That the Serjeant at Arms attending the House of Commons bring Mr. William Wallis and Mr. Cha: Nois to the Bar, to be sworn and then to the Committee tobe examined, and (3) That Mr. James Craggs, now prisoner in the Tower by order of the House of Commons, and appointed by them to attend the Committee, be brought to the Bar of the House of Lords to be sworn and then to the Committee to be examined. Memorandum. He [Bates] was further examined and the notes taken by the other Clerks while I drew the above written Orders. *Ordered* That Mr. [William] Atwell, a Goldsmith, be sworn at the Bar and attend the Committee with his books of accounts for the years 1693, 1694, 1695. (Joint Com. Book, 26 April). At twelve o'clock the House was resumed and 15 persons were sworn, viz. Child, Allen, Tyssen, Firebrace, Ince and Wilmer in addition to the *nine persons* sworn on 25th (L. J., XV. 570), and the House adjourned *till* 4 p.m. (At the Joint Committee, *Sir Basil Firebrace*, sworn, is called in. Says he made application to Sir Edward Seymour about stock, and two or three days after he chid him, but said if we would draw regulations for the Company he would not be for destroying the Company. Sir Tho: Cooke hearing the Charter stuck at D. Leeds, I applied to Mr. Bates, knowing him to be acquainted with him. He would not pretend to speak to the Duke, but would to his friend. He asked what I would give. I said 2,000*l.* So he went to St. James's, and returning said he had been offered more on the other side, and also by one of our side. Then he proposed to have 5,000*l.* for him. I acquainted Sir T. Cooke, and he agreed to it, and afterwards, asking what he should have, I told him I would get him a present, and did get him 500 guineas. He read a copy of Mr. Bates' receipt for part of the money. The 3,000*l.* was paid immediately after the passing the last Charter, and 2,000*l.* within two or three days after the first Charter. After this we always had free access to my Lord Duke, and he was always willing to give what assistance he could. Mr. Bates was always pretty shy. He called him his friend at St. James's. In the note Bates brought, which I did not like, there was the Duke's name. When I spoke about a week before the money was brought back to Bates, he said the money was all for himself, and he had it and Sir Thomas should have it again. He said (when I told him Sir Thomas would not take it all) he would advise with his friend, and he said he believed it would be paid in silver. Cooke was all along acquainted with this matter. There were 500 guineas left at my house on Monday last by a friend of Sir John Trevor's, viz. Capt. Clive, to be delivered Sir [T.] Cooke. He said it came from Sir Jo: Trevor, and Cooke has it. Sir Jos: Child was always shy of knowing names. Sir Tho: Cooke gave Trevor the money. I thought to have made Trevor and† Guy presents. They would not meddle with stock, but when the thing was done I might do what I pleased. I intended each of them a present of 1,800*l.* when the money came into my hand. The 20,000*l.* I received not till June, Lady Day. The Speaker looked on it as a promise, but asked not for it. I promised no one else anything. He withdraws. *Richard Acton*

* Here follows "I received the note for 500*l.* first," expunged.
† Here "Seymour" is interlined and expunged.

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is called in and gives an account in writing how he disposed the 12,000*l.* he received from Cooke. He withdraws. Adjourned to 6 o'clock. (Joint Com. Book). The House resumed at 4 o'clock, when James Craggs and John Parker were sworn. Then the Orders to discharge Acton and keep Bates a close prisoner were made, and the L. C. J. of Common Pleas and Mr. Justice Rokeby were ordered to attend at 8 in the evening, to which hour the House adjourned. (On the Joint Committee resuming at 6 o'clock, the *Committee of the East India Company* are called in. They are asked whether they were in the Court when the three orders for 30,000*l.* &c. were made. *A.* Sir Th: Cooke acquainted the Court he had expended 30,000*l.*, and the Court ordered it. He promised an account, but has not given it. Sir Thomas named the Committee, and the major part will always be for him. He never gave other account than that the money was for the Company's service. They are dismissed. *Sir Josiah Child* is examined. Says he saw Mr. Tyssen deliver to the King Tallies for 10,000*l.* *Mr. Atwell* produces his books, which were perused. *Mr. Tyssen* is called in. Says he had a note under Sir Josiah Child's and Sir Thos: Cooke's hands, to offer the King 50,000*l.* if they might have an Act, and the King would not have it. Says he never offered L. Portland any money. *Mr. Bates* was further examined. *James Craggs* says he will give a true account of the money received of Mr. Acton, and reads a paper how the same was disposed by him. *Ordered* That Sir Basil Firebrace may go to his own house in custody of the Black Rod or his Deputy. *Ordered* That all persons not in custody appointed to attend the Committee this afternoon are dismissed for this time. A Report drawn up by the Clerks is read and corrected, and to be communicated to each House. (Joint Com. Book, 26 April p.m.) On the House resuming at 8 o'clock it was adjourned till 10 a.m. next day, on E. Marlborough acquainting it that it may be long before the Report be finished.—On 27 April the Report was made to the House, (L. J., XV. 572–9 *in extenso*) which consists of a summary of the depositions given above, and was read by the Clerk. (1) Sir Basil Firebrace read. (2) Mr. Hornby, Goldsmith, read. L. President moved that, he hearing the Commons are proceeding in this business and going to a Vote concerning an Impeachment. × × × The House seemed to consent he might go. *Moved* That Sir Thomas Cooke, Sir Basil Firebrace, Charles Bates and Craggs may be secured till the next meeting of the Parliament, and that they may be disabled from disposing of their Estates in the meantime. *Moved* that the persons above mentioned be considered apart. *Moved* to declare that Sir Thomas Cooke is not × × ×*. After the Judges had been ordered to prepare a Bill to confine Cooke, Firebrace, Bates and Craggs till next Session, Firebrace and Bates were committed to the Tower, and the House adjourned till 6 p.m. On the House resuming L. C. J. Treby presented the Bill prepared by the Judges, and it was read twice and the House went into Committee upon it, L. Cornwallis in the Chair. It was read through. The Title and Preamble were postponed. The 1st of May was filled in as the date after which they should not alienate their Estates and a Clause as to their personal estates (Annex *h*[2] hereto, the latter part of § ii and § iii) was amended on question, the words "conveying or granting" being substituted for "aliening and disposing," and was added to the Bill. Then the

* Here follows an expunged entry "Ordered and Declared That the discovery made by Sir Thomas Cooke to the Committee of both Houses is not so satisfactory to this House, nor so full as to entitle him to the indemnity."

1695. — No. 930. Preamble was amended (*see* Annex *h*) and agreed to.—On 29 April a petition of Sir T. Cooke was read (Annex *i*), and rejected on motion, as also were petitions of Sir B. Firebrace and James Craggs. On 2 May the Commons Amendments to Cooke's Imprisonment Bill (L. J., XV. 586; C. J., XI. 329, 330 *in extenso*) were read. The Act lately passed was read. A letter from Sir T. Cooke to the L. Keeper was read (*see* Annex *m*). The first two amendments, as given in Commons Journal, are postponed; the third is agreed to; the fourth and fifth and Clause A. are postponed. Clause B. as to Sir Basil Firebrace (§ iv. of Act) agreed to. Then the postponed Amendments and Clause were, on question, disagreed to, as was also the amendment to the Title (C. J., XI. 330). The Commons did not insist on their Amendments, and the Bill received the Royal Assent on 3 May. (6 & 7 Will. & Mar. c. 19). (L. J., XV. 588–9). See also No. 938].

Annexed

(*a*) 11 April. Petition of same, praying for some further reasonable time to be heard by Counsel, as he cannot be ready by the time appointed by the House [Read this day *and rejected.* L. J., XV. 537.]

(*b*) 16 April. Amended* Draft of an Act to indemnify Sir Thomas Cooke from actions which he might be liable to by reason of his discovering to whom he paid and distributed several sums of money therein mentioned to be received out of the treasure of the East India Company, *or for any prosecution for such distribution*†.

Whereas it appears by the books of the East India Company that Sir Thomas Cooke, Knt., in the year 1693, being then Governor of the said Company, did receive out of the stock and treasure belonging to the same, the sum of 77,258*l.*, and has also received out of the stock and treasure of the said Company, the further sum of 90,000*l.* And whereas a true discovery of the distribution and application of the said several sums of money will be of public use and service, [*and can no longer remain concealed without an imputation to the justice*] *and is necessary to the vindicating the justice and honour of the Government.* And the said Sir Thomas Cooke hath voluntarily offered to make such discovery, so as he may be indemnified in such manner as is hereafter mentioned *and provided.* Be it therefore enacted &c., that if the said Sir Thomas Cooke shall, on or before the 23rd day of April, 1695, make a *true*‡ discovery upon oath at the Bar of the House of Lords, how, and in what manner and to what person or persons, and to what particular uses, intents, and purposes, and on what account the said [several sums] *sum of 90,000l., and the sum of 67,000l, part of the said sum of 77,258l.*, have been distributed, paid, applied, disposed or made use of, *then* the said Sir Thomas Cooke shall not, by reason or means of such discovery, be liable to any action or suit, of any person or persons whatsoever other than the said East India Company, nor shall such discovery *or confession* be allowed or given in evidence *against him*, in or upon any action or suit other than

* Additions in italics, omissions in square brackets. The alterations, except those specially noted, appear to have been made by the Judges before introducing the Bill.

† Added in Lords C. W. H. on 16 April. MS. Min.

‡ Added on Third Reading on 17 April. MS. Min.

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as aforesaid; And also shall be and is hereby declared pardoned and indemnified for any crime he may have been guilty of, in the distribution, payment, application or disposal of the [same] *said money* to any person other than to himself. And be it further enacted, by the authority aforesaid, that the said Sir Thomas Cooke shall, on or before the 1st day of September, 1695, [make a discovery] *either discharge himself* upon oath to the Commissioners appointed for stating and taking the Public Accounts of this kingdom, *of and concerning the sum of 10,258l. residue of the said 77,258l., or discover upon oath to the said Commissioners* how and in what manner and to what person or persons, and to what particular uses, intents and purposes, and on what account the *said* sum of 10,258*l.* [residue of the said sum of 77,258*l.*] hath been distributed, paid, applied, disposed, or made use of.

[Brought in by the Judges, pursuant to Order of Select Committee, and read 1ª and 2ª and considered in C. W. H. this day. (Com. Book, 16 April; L. J., XV. 541). The Commons' amendments are given in C. J., XI. 310. Royal Assent 22 April. 6 & 7 W. & M. c. 15.]

(*c*) 17 April. Draft of Rider added by the Lords this day to the Indemnity Bill (*see* preceding) on Third Reading. It forms the latter part of § ii of the Act, beginning "And in such case," &c., and is annexed to the Roll in a Schedule. L. J., XV. 543.

(*d*) 17 April. Petition of Sir Thomas Cooke. Petitioner being yesterday heard at the Bar on the Discovery Bill (N° **929**), upon which the Lords appointed a Committee to draw a Bill to indemnify him (Annex *b* above), which has been ordered to be engrossed, and Petitioner being informed that the Lords intend to proceed upon the Discovery Bill, he prays them to leave out such Clauses therein by which he will be convicted of crimes to which he has not been heard to defend himself; and also the 90,000*l.* for which Petitioner is accountable to the East India Company by a note under his hand, as upon examination of the Governor and Committee, who are ordered to attend this day, will appear; and further to amend the Bill in such manner that Petitioner may not be obliged to discover in any other manner than to the best of his knowledge; and that provision may be made therein to indemnify Petitioner in such manner as is provided by the Indemnity Bill. [Read this day and rejected. L. J., XV. 543.]

(*e*) 24 and 27 April. Reports from the Committee of both Houses which sat in the Exchequer Chamber. (Compare Notes of the Evidence, set out above.) These Reports are printed *in extenso* in the Lords Journals, pp. 565–8 and 572–9, and consist of the following papers:—

(*e*)[1] Report of Sir Thomas Cooke's examination on 23 April, made on 24 April. It consists of two papers, 8 pages. L. J., XV. 565–7.

(*e*)[2] The Original Account delivered to the Committee of both Houses the 23rd April 1695. Reported 24 April. L. J., XV. 567–8.

(*e*)[3] Report of Sir Basil Firebrace's examination on 24 April, made on 27 April. L. J., XV. 572–3.

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(e)[4] Report of the examinations of Hornby, Fowles, Firebrace, Acton and Powell on 25 April, made on 27 April. 3 Sheets. L. J., XV. 573–4.

(e)[5] Mr. Hornby's Statement of Sir Basil Firebrace's Account with him. Reported 27 April. L. J., XV. 575–6. The entries in the Commons' Journal, given in footnotes to L. J., for this and the following paper are correct.

(e)[6] Mr. Fowle's Statement of Firebrace's Account with him. Reported 27 April. L. J., XV. 577. This and the preceding paper were appended to (e)[4].

(e)[7] Report of the examinations of Bates, Firebrace, Acton, Child, Tyssen and Craggs on 26 April, made on 27 April. 10 Pages. L. J., XV. 577–9. It ends with the words "to any Member of Parliament" at the close of Craggs' evidence, and differs from the Journal entry in appending Fowle's Statement (e)[6] and the Reports delivered in by the Committee of the East India Company (annexes *f*, *g*, below) which are not printed in L. J.

(e)[8] Duplicate of (e)[6], exhibited by Mr. Wootton on 26 *April*, and appended to preceding. *See* L. J., XV. 577.

(e)[9] Bates' receipt for 3,000 guineas, dated 9 *Sept. 1693*, and produced by Firebrace on 26 April. *See* L. J., XV. 578. Appended to (e)[7]. *Ib.* 579.

(e)[10] Acton's Account of his distribution of 11,293*l.* 15*s.* Delivered in on 26 April and appended to (e)[7]. L. J., XV. 579.

(e)[11] Craggs' Account of his distribution of 4,540*l.* received from Acton. Delivered in on 26 April, and appended to (e)[7]. L. J., XV. 579.

(*f*) 26 April. Report of the Committee of Nine of the East India Company, dated the 12 March 1694, relating to the past management of the Company's affairs, presented to the General Court 1st April 1695. Whereas this Court by their Order of the 20th of Dec. last, did empower us to meet and further to consider of the matters to us referred by their order of the 14th of November preceding. We have in pursuance of the said order inspected into the Company's affairs, and do report as follows, viz. :—

(1) Upon examination of the Company's Cash Book, we find that the balance the 31st of Oct. 1694 was 124,249*l.* 15*s.* 10*d.*, and demanding of Mr. Portmans, the cashier, if he had the same in cash, he replied he had not, but instead thereof laid before us in writing, on the 22nd of Nov. 1694, the following particulars, vizt. :—

£.	s.	d.	
90,000	–	–	Lent upon Sir Thos. Cooke's note.
28,634	–	–	By notes or receipts given by Mr. Atwill & Company.
4,065	–	–	By notes from several persons taken by Sir Thos. Cooke's order.
1,550	15	10	By several small sums.

making 124,249 15 10, which makes the above-mentioned balance.

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And upon further and more particular examination why that 90,000*l.* was standing out, Mr. Portmans produces the then governor Sir Thomas Cooke's note in hæc verba.

> Recvd. the 10th January, 169¾, of Mr. Edmond Portmans, for account of the East India Company, Ninety Thousand Pounds, which I have disbursed and paid for 99,197*l.* East India Stock for their account which I promise to be accountable for account of the East India Company, and was by order of Court the 24th November, 1693.
>
> ℔ Thomas Cooke.

That Order of Court is in the words following, vizt. :—

> It is ordered that the Cashier-General do from time to time make payment of such sums of money for carrying on of the Company's service as the governor shall direct pursuant to the sense of the present debate.

But we find no entries or mention in the Court's Books, or elsewhere. What the debate was and how far the said order tends to the buying of stock we submit to the judgment of this Court.

And whereas it is alleged by Sir Thomas Cooke, that for the 90,000*l.* aforesaid, there was an agreement made with several subscribers for 99,197*l.* stock on or before the 10th of Jan^{y}, 169¾. Yet, we do not find, to this hour, any warrant for the said sum, or any of that stock transferred in the Company's books for their account, excepting 18,300*l.* stock on the 16th of January last, for which the Company have paid 10,200*l.* which is charged to his account. And we are further informed that 24,000*l.* of the said stock was re-sold at 74*l.* p' cent. ; and we do likewise find that there is an order of the Court of Committees dated the 9th Nov. last, made upon a report from the Committee of the Treasury, so much of which report and order as relates to the said stock in hæc verba :—

> On reading a report from the Committees of the Treasury, touching the accounts of the Deputy Governor referred to them, by order of Court of the 26th October last which follows in hæc verba, viz^{t}. We find, that admitting the 99,000*l.* stock (as the Court seemed to approve) to be for Company's account in the sum of 90,000*l.* There will be due from the Company to Sir Thomas Cooke about 73,000*l.* to complete the moneys disbursed for the investment at Cadiz, and, according to the determination of the last Court, we went to Sir Josiah Child, who declared that he never heard of the sale of the 24,000*l.* stock, until about the time it was mentioned at the Court ; but as to his own concern he is willing to submit to the loss in that sale, considering the necessity alleged by Sir Thomas Cooke for want of money.
>
> As to the remainder of that stock being 75,000*l.* stock, Sir Thos. Cooke declared it is engaged to several persons for moneys taken up to supply the disbursement above-mentioned, which, when the same is paid to him, he will be answerable for the said stock. The Court approved of the disbursements made by the Deputy Governor, and of the 24,000*l.* stock by him sold, for the reasons therein mentioned.

Which approbation being so many months post factum, the consideration thereof we likewise submit to this Court.

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(2) We find that the sum of 30,000*l.* is brought into the Company's Cash Book the 31st March, 1694, after the Cash Book was cast up, in these words:—

> By Sir Thomas Cooke paid him, on his note, according to an Order of Court of the 24th November last.

The receipt whereof, without a warrant, is acknowledged by the said Sir Thomas Cooke and remains in Mr. Portman's hands in the words following:

> Received the 31st March, 1694, of Mr. Edmond Portmans, for the account of the Honourable East India Company, the sum of 30,000*l.*, which I promise to be accountable for with interest for the same, being for several sums advanced to several persons. Witness my hand the day and year above written.
>
> Thomas Cooke.

Notwithstanding which, we find the said sum of 30,000*l.* carried to the Company's debt in charges general. And the Journal parcel of that entry erased, by which it plainly appears to us that the said Journal parcel of that date was altered, and this sum of 30,000*l.* introduced some time after. Besides we find the account of charges general stands balanced and carried to profit and loss with this 30,000*l.* included. But Mr. Thorowgood, the book-keeper, did declare upon oath 21 Feb. 1694, that the passing of this 30,000*l.* was an error of his, and coming to lay the Account of Charges general before Sir Thomas Cooke in November last, the error was discovered by Sir Thomas, who gave him orders to withdraw it from thence and to place it to his own account, which is now done. But the said proceeding between Sir Thos. Cooke and Mr. Thorowgood was not made known to us till we discovered the same in the book. We further observe that the said sum of 30,000*l.* is taken out of the Company's cash without a warrant, under pretence of the forementioned order of the 24th Nov., 1693, which we submit to the consideration of this Court.

(3) We further find the sum of 9,000*l.* stock declared to be bought for the Company by Sir Bazil Firebrace which cost 8,520*l.* as by the following particulars—

		£.
Dec. 5th 1693.	Of Alvaro Da Costa	1,000 at 95 per cent.
	Of Benjamin Levi	1,000 at 95 per cent.
	Of Richd. Cock	1,000 at 95 per cent.
Dec. 6th 1693.	Of Samuel Ongley	1,000 at 95 per cent.
	Of Sir R. Aynsworth	2,000 at 95 per cent.
Dec. 22nd 1693.	Of Do. Sir Rowland	1,000 at 96 per cent.
Jan. 4th 1693.	Of Capt. Wm. Heath	1,000 at 96 per cent.
April 3rd 1694.	Of George Jarvis	500 at 90 per cent.
6th 1694.	Of Peter Monger	500 at 90 per cent.
		9,000 amounts to £.8,520.

As also a sum of 7,828*l.* 13*s.* 1*d.* including interest and charges thereon, for guineas given out to have the refusal of stock at high rates, and transacted without any order from the Court of Committees for the same, to the great damage and dishonour of the Company. And in the examination of the said matter, we do find that the contracts upon the guineas given out, as afore-

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said, were made in the names of private persons, not members of the Company, and that in those contracts, no such provision was made as might entitle the Company to the benefit (had any arisen) by the same; but on the contrary, the said contracts were never made known to the Court of Committees, until some months after the expiration of the time, so that if there had arisen any profit upon them, they might then have been applied to his proper account, who had the negotiating of them. In consideration whereof, it appeared to us that those contracts did no way concern or oblige the Company; and understanding that the Committee of the Treasury had made a report of the 9th of November disallowing the same, the clause whereof follows in hæc verba, vizt.

> As to the disbursements pretended to by Sir Bazil Firebrace for guineas given out to have the refusal of stock at a certain time and the moneys paid for stock bought, Sir Josiah Child doth declare, he never was privy to any such negotiation till very lately, nor doth he, nor ourselves find any ground for such an authority given to him by the Court, whereby to lay the loss upon the Company's stock, and therefore we can give no other report thereupon, but refer it back to the Court.

And also being informed that the money was not actually paid the 19th of November, we did, as we apprehended it our duties to do in behalf of the general joint stock, use our endeavours, as much as in us lay, to prevent the payment of the said money, by giving the following intimation in writing to the Company's officers, which was produced to the Court of Committees, vizt.—

> In pursuance to an order of the General Court of Adventurers for the general joint stock to the East Indies, dated the 14th November, 1694, impowering us to inspect into the affairs of the general joint stock under the management of the Court of Committees, and of the several transactions that have been had therein for the satisfaction of the Adventurers, and Whereas upon the consideration had of the same, information hath been given us, that there is the sum of 16,348*l.* 13*s.* 1*d.* demanded by Sir Basil Firebrace for guineas given out upon contracts for stock, and for stock bought, and an Order of the Court of Committees for payment of the same, which disbursement is, in our opinion, irregular, being done without order; and the order for payment thereof is also irregular, being post factum; we therefore agreeing unanimously that it ought not to be allowed, without the approbation first had of a General Court, have thought fitting on behalf of the said Court to signify unto the Accountant General, that he shall not make out any warrant for and unto the Committee of the Treasury and the Cashier General that they shall not pay the said sum of 16,348*l.* 13*s.* 1*d.*, or any part thereof, or affix the Company's seal to any bill or bills for that purpose till the pleasure of the said General Court be first known. Given under our hands this 19th of Nov. 1694.

Nathaniel Tenche	Jeremy Sambrooke	Benjamin Bathurst
Wm. Fawkener	Edward Rudge	George Bonn
John Ward	Robert Marshall	Isaac Houblon

Notwithstanding which Report of the Committee of the Treasury and intimation aforesaid, yet the Court of Committees were

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pleased to approve of the said Contracts post factum. by an order of theirs of the 9th Nov^r. last in the words following :—

And as to the demands of Sir Bazil Firebrace, amounting to 16,866*l.* 9*s.* 8*d.*, the particulars whereof are undermentioned :

Sir Thomas Cooke is Dr. to Sir Bazil Firebrace for account of the East India Co., 1693, for premiums of refusal of stock at 6 months, viz. :—

£.
Of 32,000 by Abraham Wilmore.
Of 29,750 by John Barksdale.
Of 1,800 by Jacob Marsom.
Of 7,500 by Josiah Davis.

		£.	s.	d.
71,050	as by the several particulars, amounting -	7,110	14	–
For 9,000*l.*	Stock bought of divers persons per particulars - -	*8,520*	–	–
17 Sept. 1694.	For Interest to this day of the above said payments, as per particular -	517	16	7
	For Brokerage of 80,050*l.* at ½ per Cent. - - - - - -	200	2	6
		16,348	13	1
	Gratuity - -	517	16	7
	£.	16,866	9	8

The same being now taken into serious debate, and Sir Bazil Firebrace affirming that the whole transactions of that affair and the persons managing the same were by particular order of Sir Thomas Cooke, the then Governor, wherewith he was frequently made acquainted, and that Sir Bazil had no particular interest in, or advantage thereby, and the Governor declaring that he was made acquainted therewith six months ago, and importuned by Sir Bazil Firebrace that the said account might be adjusted by the Deputy Governor, on consideration thereof had the Court thought to allow of the said account, excepting the 517*l.* 16*s.* 7*d.* therein demanded for a gratuity ; and ordered that a warrant be made out for the same, Sir Bazil first transferring the 9,000*l.* unto the Secretary, for the Company's use.

And also were pleased to sign warrants for payment of the said money, which accordingly was done, viz.: 7,828*l.* 13*s.* 1*d.* the 7th Dec., and 8,520*l.* the 4th January, making, in all, 16,348*l.* 13*s.* 1*d.*, which we likewise submit to the consideration of this Court.

(4.) We further find several contracts are said to be made by Sir Thomas Cooke & Sir Bazil Firebrace, & Sir Jos. Herne, for stock to the value 67,385*l.* 19*s.* 6*d.*, viz. : 34,342*l.* 9*s.* 6*d.* by Sir Thomas, and 28,043*l.* 10*s.* by Sir Bazil, and 5,000*l.* by Sir Jos. Herne for the Company's account, to be put upon them at 100 per Cent. at any time before the 10th of January last, the which stock now stands transferred in the Company's books to Mr. Secretary Blackborne for their account, by which they

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are like to be great losers; yet we find the same to be allowed of, by an Order of Court of the 26th October last in hæc verba, vizt.—

The Deputy Governor representing to the Court that himself and Sir Bazil Firebrace had, for the encouragement of the late subscriptions, entered into bonds to swear to several persons for accepting of stock to the value of 65,267*l.* 10*s.*, in Dec. and Jan. next at 100 per Cent. if demanded of them, viz.: 37,222*l.* thereof by the Deputy Governor, and 28,043*l.* 10*s.* by Sir Bazil Firebrace; the whole having been subscribed and paid in; and no part thereof on either of their accounts, and desiring they might be idemnified for what loss should accrue thereon, if any; the Court declared they should be indemnified accordingly, under the Company's seal if required.

And although the said contracts, as we are informed, were given up at the sealing of the bonds for the money, yet, when we demanded a view of them, to see what consideration and other terms of agreement they contained, we found them suppressed (excepting only those made by Sir Thos. Cooke), and as Mr. Portmans says, were delivered into the hands of Sir Bazil Firebrace, notwithstanding the order of Court of the 4th of January last, which referred it to the Committee of the Treasury to direct the taking up the engagements of the Deputy Governor and Sir Bazil Firebrace, so that we are deprived of giving this Court such an account of this article as is necessary. Only this we know, that consideration was allowed for some of them, and not accounted for to the Company, which we likewise submit to the consideration of this Court.

(5). We find upon the Company's account of Charges General paid out of Cash, viz.—

	£.	s.	d.		£.	s.	d.	
In June 1688,	1,079	12	2	Sir Benjamin Bathurst, Governor.				
Jan. „	205	1	4					
Dec. 1689,	400	–	–	Sir Josiah Child, Deputy.				
Jan. „	546	–	6					
				together - -	2,230	14	–	
Aug. 1690,	314	8	8					
	369	6	8					
Jan. „	871	13	4					
Feb. „	1,174	10	–	Sir Joseph Herne, Governor.				
Apr. 1691,	595	–	8					
May „	4,500	–	–	Sir Thos. Cooke, Deputy.				
Oct. „	435	16	8					
	545	16	8					
Jan. „	1,073	6	8					
Mar. „	3,652	10	–					
				together - -	13,532	9	2	(*sic*)
Apr. 1692,	2,250	–	–					
	2,409	15	4					
Mar. 1693,	2,000	–	–	Sir Thomas Cooke, Governor.				
May „	22,275	–	–					
Oct. „	1,091	13	4	Mr. Tyssen, Deputy.				
Nov. „	24,983	–	–					
Jan. „	30,000	–	–					
Mar. „	2,393	9	7					
				together - -	87,402	12	3	
					£.103,165	15	5	

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Of the disposal of which money we have been able to obtain no further account than that the same is made paid in the Company's books in general terms for special service, and that great part thereof was, as we are informed, put into the hands of Sir Basil Firebrace. But the most material orders of Court that appear to us to relate to the greatest sums are as followeth, viz.—

At the Court of Committees holden the 13th April 1693. The Governor this day acquainting the Court with what proceedings had been made in their affairs towards granting a new Charter, and with what had been disbursed by him in prosecution thereof, the Court approved of the said charges, and ordered a warrant to be made out for the same, returning him their thanks for his great care, pains and trouble in their service, desiring him to proceed in the perfecting thereof.—£22,275.

The 24th November 1693.

The Governor this day making a representation of *what sums* of money had been by him of late disbursed *in the* management and carrying on of the Company's affairs for their service, the Court approved thereof, and ordered that a warrant be made out for making the same paid in cash accordingly, giving him their thanks for his great care and pains taken therein.—£24,983.

The 22nd January 1693–4.

It being represented unto the Court that in the further prosecution of their affairs, and in order to their settlement, there has been several sums of money disbursed amounting to Thirty thousand pounds in the whole, the particulars thereof were now laid before them. On consideration thereof had, It is ordered that the said moneys be made paid in cash, and that a warrant be made out accordingly. —£30,000.

(6). We do also think fit to lay before this Court a brief state of Sir Thomas Cooke's account as it occurs to us, and is as follows :—

That the said Sir Thomas Cooke was indebted to the Company before the transfer of 18,300*l.* stock the 16th January last, and mentioned in this Report, as near as we can compute, the sum of 69,400*l.*, without any interest charged, which we conceive will be very considerable.

But if the said 18,300*l.* stock at 90 per cent., amounting to 16,470*l.* should be allowed by this Court (which we do refer to their serious consideration), then there will yet remain due to the Company from the said Sir Thomas Cooke, the sum of 52,930*l.* without any interest charged as before.

All which, nevertheless, is submitted to the further consideration of this Court. Dated at the East India House the 12th March 1694–5. *Signed* by

Nathaniel Tenche.	Jeremy Sambrooke.	Ben. Bathurst.
Will. Fawkener.	Edward Rudge.	Isaac Houblen.
Ino. Ward.	Ro. Marshall.	George Bonn.

[Delivered in by the Committee of the East India Company this day, (L. J., XV. 578) and appended to the Report made on 27th,

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(*see* (*e*[7]) above) but not printed in L. J. The effect of this paper is given in C. J., XI. 267–8].

(*g*). 26 April. Report of same about saltpetre contract and pepper, dated and presented on same day as preceding. We, the persons hereunder subscribing, do hold ourselves obliged, in pursuance of the orders of the General Court of the 14th Nov. and 20th of December, further to report as followeth :

We find that in the month of Sept. 1690, Sir Joseph Herne, being Governor, and Sir Thos. Cooke, Deputy, there was a contract made by Mr. Robert Woolley, in behalf of the said Governor and Deputy and others, for all the Company's pepper which they then had by them at 11¼*d.* per pound for Malabar and Jambee pepper, and 10¾*d.* per pound for the Billiapatam, and for all that should arrive betwixt that and the 1st day of March following : And that in Decr. after the contract, the Parliament did put 3*d.* a pound as a new duty upon all pepper that should arrive, by which Act the said 3*d.* a pound was all to be paid back again upon the exportation, and that in January following, the ship Chandos did arrive with 117,000*l.* worth of pepper. Upon notice whereof, in February following, Mr. Robert Woolley, the broker, came before the Court of Committees and demanded the said pepper at the price agreed on in his former contract, who being withdrawn, the Court debated whether they should be obliged to deliver it before they were assured they should receive satisfaction for the 3*d.* a pound, and upon promise of the then Governor and Deputy, who were parties concerned in the contract, that they should receive satisfaction for the same, the Court did agree to the delivery of it ; which said 3*d.* a pound is not made good to the Company, and is to their damage about the sum of 1,400*l.* We find a contract, bearing date the 26th of Feb. 1693, for 200 tons of saltpetre to be brought home in the ship Seymour, from India, to pay the sum of 12,000*l.* for the same, and 25*l.* per ton freight to the owners of the ship, besides all charges here, 2,000*l.* (part of the said 12,000*l.*) which was the sum sent out to purchase the said saltpetre, is actually paid out of the Company's cash, and a bond for the remaining 10,000*l.* is given under their seal, payable 31st March next, whether the ship arrive in safety or not, with this limitation only, that if 200 tons of petre be not laden upon the said ship, then to repay in proportion to the want thereof, so that the result of this contract is this—The Company run the adventure of 12,000*l.* for that which costs only 2,000*l.*, and must consequently lose 12,000*l.* if the ship miscarry. And, on the contrary, the seller on the other hand gets 10,000*l.* clear, without disbursing or running the hazard of one penny, and what is yet more as certain, a loss of 9 or 10,000*l.* will attend if the ship arrive in safety. All which, nevertheless, is submitted to the further consideration of this Court. Dated, East India House the 12th March 1694. *Signed*, Jeremy Sambrooke. Edward Rudge. Ro. Marshall. Nathaniel Tench. Will. Hawkins. Ino. Ward.

(Note).—This Report, when given into the General Court, was also signed by Sr. Benj[a] Bathurst and Isaac Houblon [Delivered in by the Committee of the East India Company this day (L. J., XV. 578), and appended to the Report made on 27th (*see* *e*[1] above), but not printed in L. J. The effect of this paper is given in C. J., XI. 268].

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[illegible] Act of an Act for imposing [illegible] Sir Basil Firebrace, James Bates Esq. and [illegible] restraining them from alienating their estates. [illegible] Informations and Examinations taken [illegible] Committee of both Houses during this present Session of Parliament it doth appear that Sir Thomas Cook Knt. Sir Basil Firebrace Knt. Charles Bates Esqre and James Craggs [illegible] among themselves and with others *there have been divers* [illegible] *and corrupt practices* to procure by corrupt means a Charter and an Act of Parliament to be granted and passed relating to the East India Company. *and Sir Thomas Cook Knt. Sir Basil Firebrace Knt. Charles Bates Esqre. and James Craggs have been concerned in* [illegible] *examined concerning* [illegible] *in the same. and having not upon their examinations hitherto made a full or satisfactory discovery concerning the premises.* Now &c. the rest being the same as in the first three Sessions of the Act 6 & 7 Will. & Mar. c. 19. the fourth Session having been added by the Commons. [*See* Note to principal paper above. The Bill was brought in this day by C. J. Treby. The Judges having been ordered to prepare it, and was amended in C. W. H. [C. J. XV. 580]: MS. Min. of date). It received the Royal Assent on 3 May. 6 & 7 W. & M. c. 19].

(g) 27 April. Paper in the same hand as preceding Bill, containing the words "and having not upon their examinations made a full or satisfactory discovery concerning the premises," inserted this day in the Preamble to the Bill. [*See* Note to principal paper above.] MS. Min. of date. Appended to preceding.

(h) 27 April. Similar paper containing the words forming the latter half of § ii and § iii of the Act, added to the Bill this day. The words "aliening or disposing," originally in this draft, were replaced by "conveying or granting." MS. Min. of date. [*See* Note to principal paper above.] This paper also contains some notes in shorthand, and is also appended to (*h*).

(*i*) 29 April.—Petition of Sir Thomas Cooke praying that, in regard he has been encouraged by the Indemnity Act to make a discovery, and is willing in all things to comply with the same, he may have the benefit by the Act designed for him, and may be allowed to be heard by Counsel against the Imprisonment Bill (Annex *h* above). An apparently identical Petition to the Commons is set out very fully in C. J., XI. 327–8. Read this day and rejected on Motion. MS. Min. No entry in L. J.

(*k*) 29 April.—Petition of Sir Basil Firebrace. Petitioner did not secrete or withdraw himself from their Lordships, but voluntarily surrendered himself, and has not declined answering the questions of the Committee of both Houses, and will always answer truly. The Imprisonment Bill, if passed, will restrain him from all trade and commerce, in which he has long been deeply engaged. The Bill affords him no means of giving farther satisfaction or doing any Act whereby to procure his enlargement. Prays to be heard against it, or that such Clauses may be added to it that he may be at liberty to go on in his present trade, giving security to appear when required; and that a clause may be added to indemnify him against all crimes,

* Additions in italics, omissions in square brackets.

actions, or suits which may be brought against him by reason of any discovery already made to the Committee. Read this day and rejected. MS. Min. No entry in L. J.

(*l*) 29 April.—Petition of James Craggs. Petitioner, as to the 4,540*l.* charged upon him by Mr. Acton, is ready to produce other witnesses to confirm the account he has already given, and will give security to do so. Prays that, since he was no ways concerned or entrusted in the Government of the East India Company, nor had any relation to any public office whatsoever, but was employed only as a private solicitor, he may not be included in the Imprisonment Bill, but may be admitted to Bail. Read this day and rejected. MS. Min. No entry in L. J.

(*m*) 2 May.—Letter from Sir Thomas Cooke to the Lord Keeper. Has not as yet given his Lordship any trouble about the Imprisonment Bill, returned this day from the Commons amended, which says he has not hitherto made a full or satisfactory discovery, though on oath. If he had seven years time he could make no further discovery as the 90,000*l.* and 67,000*l.*, and one penny cannot be justly disproved by any man. The Bill takes away the benefit of the previous Act made for him, and disables him from trade and commerce, taking away all his credit and reputation, which is as dear to him as his life. Hopes, on second thoughts, their Lordships will leave his name out of the Bill (Providence having directed amendments by the Commons, which he hopes will be an occasion for their Lordships to take this opportunity to leave him out of the Bill). Believes the Lords will hereafter think the first Bill inflicts sufficient punishment on him, and hopes he may have a clause for bail. Relies on his Lordship's favour to communicate this to the Lords, and will pray to God to direct them, and to enable him to bear their pleasure under this his great misfortune. Begs pardon for his presumption and for anything amiss herein. *Dated* Tower, this day. Read this day. MS. Min. No entry in L. J.

931. April 11. Dame Margaret Standish *v.* L. Willoughby of Parham.—Petition of Dame Margaret Standish, relict of Sir Richard Standish, Bart. Peter Shaw, Gent., and George Smith were, under a wrongful title, in possession of a lead mine lately opened in lands in the Manor of Anlezargh, Lancashire, which were part of Petitioner's jointure. She brought an action of Trespass and Ejectment against them in the names of Thomas Morris and John Abbott. Thereupon Shaw and Smith, to shelter their possession, got one Thomas Waddington, a mortgagee, to assign over his mortgage, in trust for them, to Lord Willoughby of Parham, who was thus made Defendant; and at the last assizes at Lancaster Mr. Baron Turton refused to give judgment until the House of Lords should determine how far his Lordship's interest was concerned. Prays that, as L. Willoughby is not concerned except as a trustee, his privilege may not obstruct Petitioner's and Abbott's prosecution for their rights. *Signed* M. Standish. L. J., XV. 536. [Read this day and referred to the Committee for Privileges. No entry in Priv. Book. On 29 April the House was informed that L. Willoughby waived his privilege. L. J., XV. 582. Same information given 1st May. MS. Min. No entry in L. J.]

932. April 12. Privateers Act (Declaration of Commencement) Bill [H.L.].—Amended Draft of an Act for declaring the commence-

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ment of an Act intituled "An Act for continuing the Acts for prohibiting all trade and commerce with France, and for the encouragement of privateers" to be from the time that it passed the Royal Assent, to wit on the fourteenth day of March 1692. Whereas in and by an Act made in the fourth Session of this present Parliament intituled An Act for continuing the Acts for prohibiting all Trade and Commerce with France, and for the Encouragement of Privateers, there is no certain time mentioned upon or from which the same should commence, by means whereof the said Act *may** be construed to be of force from the first day of the said Session, which, *if so,*† *might* draw *in* question some proceedings, sentences and decrees in the Court of Admiralty, Court of Appeals, and other Courts and places, and render many persons liable to suits for things done between the first day of the said Session and the passing of the said Act; Therefore, for the prevention thereof and for the quieting the minds of all His Majesty's good subjects who happen to be therein any way concerned, Be it enacted by, &c., that the said Act was not intended to commence, nor shall be construed to commence or take effect, before the fourteenth day of March 1692, on which day the same did pass *the* Royal Assent; *And that all and every Sentence and Decree, concerning any matter or thing happening or arising before the said 14th day of March* 1692, *shall be of the same force and validity in law as if the said Act had commenced and taken effect on or upon the said 14th day of March and not before.*‡ [Read 1ª this day, L. J., XV. 538. The Amendments made by the Commons, noted above, were agreed to by the Lords on 29 April (L. J., XV. 581), when the Proviso added by the Commons, excepting the ship "Young Prince" from the Bill (C. J., XI. 320) was, after hearing Counsel for Elias Measurer (Annex *b*), disagreed to. The Bill was dropped after a Conference with the Commons. L. J., XV. 585.]

Annexed:—

(*a*) 18 April. Draft of Clause added by the Lords in Select Committee this day. Com. Book. It is set out in the text above.

(*b*) 27 April. Petition of Elias Measurer, of London, Merchant, on behalf of the owners of the privateer called the "Guernsey Sloop." About January 1692 she retook from the French a vessel called the "Young Prince," which had been in their possession since the beginning of the war, and in February following she was duly condemned in the High Court of Admiralty, and the tenths, customs and other charges paid, and in April 1693 she was publicly sold by inch of candle. About 6 months after the sale one Thomas Sandis and others pretended a right to her by virtue of the late Act for Encouragement of Privateers, which passed after the capture and condemnation, but the Judge of the Admiralty confirmed his first sentence and rejected Sandis' claim. The clause added by the Commons, to except Petitioner's case from the Bill, which was passed by the Commons without hearing Petitioner, will be very prejudicial to him. Prays to be heard by Counsel. L. J., XV. 572. [*Sir Thomas Powys* and *Mr Philimer* were heard for Petitioner on 29 April, MS. Min.]

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* Altered by the Commons to "must." C. J., XI. 320.

† Altered by the Commons to "will." C. J., XI. 320.

‡ The words in Italics are a Clause added in Select Committee on 18th April. Com. Book.

933. April 16. Writ of Summons (M. Halifax)—Writ of Summons, dated 15 April, to William, Marquess of Halifax, who took his seat this day. L. J., XV. 541.

934. April 22. Briggs v. Parkins. (In Error).—Writ of Error and Transcript of Record brought in this day. L. J., XV. 561. Catherine Parkins had sued William Briggs, Marshal of the King's Bench, for the escape of Castell Drury, her debtor for 400*l.* *See* next Paper. *Parchment Collection.*

935. April 23. Briggs *v.* Parkins.—Petition of Catherine Parkins. Petitioner in 1693 recovered a Judgment against William Briggs, Marshal of the King's Bench for 400*l.* debt and 10*l.* costs. Briggs brought a Writ of Error in Exchequer Chamber and a Bill in Chancery, merely for delay, and his Writ of Error to the House of Lords is informal, being not within fourteen days from the beginning of the Session. Prays it may be dismissed and remitted. L. J., XV. 564. [On this Petition being read, the Standing Order was read, and it was ordered that the Writ of Error, brought the previous day (L. J., *ib.* 561) be not received, and that a *Supersedeas* be issued out of the Court of King's Bench upon the Writ of Error. MS. Min. of date. *See also* preceding Number.]

936. April 24. Privateers Encouragement Bill.—Commons' Engrossment of an Act for the better encouragement of Privateers.

§ i. Whereas by an Act made in the fourth and fifth years of the reign of King William and Queen Mary, intituled, An Act for continuing the Acts for prohibiting all trade and commerce with France and for encouragement of privateers, sufficient encouragement for privateers, or for the captains, officers or others commanding or serving in their Majesties' ships of war, was not enacted or provided; may it therefore please your most Excellent Majesty, that it may be enacted and Be it enacted by the King's most Excellent Majesty, &c., that the said Act intituled, An Act for continuing the Acts for prohibiting all trade and commerce with France, and for encouragement of privateers, except so much thereof as doth enact the continuing the said Acts for the term therein mentioned, and a Clause therein contained for the encouragement of persons authorized by the Commissioners of the Customs, to discover and seize goods of the growth, product and manufacture of France, be from and after the first day of June in the year of our Lord One thousand six hundred and ninety-five, repealed, annulled, and made void to all intents and purposes whatsoever, which said Acts thereby continued and everything therein contained, except what hereby is altered or otherwise enacted or provided, are hereby enacted to be and continue in force for the term of three years from the said first day of June, one thousand six hundred and ninety-five, if the present war with France shall so long last.

§ ii. And be it enacted by the authority aforesaid, that all ships and vessels with their ladings, and all goods and merchandize that shall be taken or seized as prize, by any of his Majesty's ships of war, or by any ship or ships set forth as privateer or privateers, or otherwise, shall be imported and brought into some port of his Majesty's dominions, and immediately, without breaking of bulk, put into the possession of his Majesty's Commissioners of the Customs, or their Officers or Agents in the said port, who, together with two or more such persons as the officers or mariners of the respective ships shall intrust, are to take care of and preserve the same from embezzlement, until such time as the

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same shall be adjudged lawful prize, except where it shall appear to the Judge of the Admiralty, that the goods taken are perishable; in which case the said Judge shall take bail for the said goods, in order to the sale thereof, as he might have done before the making of this Act, yet so as to be subject to such manner of sale and distribution as is particularly provided by this Act. And be it enacted that so soon as conveniently may be after any ship, vessel, goods and merchandize taken by any of his Majesty's ships of war shall be adjudged lawful prize, as aforesaid, or ordered to be sold by the Court of Admiralty, the same shall by virtue of a Commission to be issued out of the Court of Admiralty and directed to the Commissioners of his Majesty's Customs, and the commander of such ship of war, or any other person or persons by him appointed under his hand and seal, be sold by inch of candle to the best advantage, public notice being first given of the quantities and qualities thereof, and of the time and place of such sale, at least fourteen days before the time of such sale at the Royal Exchange in London and the most public place in the said port where such prize is to be sold; an account of which sale shall be forthwith transmitted to the Court of Admiralty by such persons by whom such sale shall be made, and the produce thereof after the Customs and other duties are paid, shall be divided into eight equal parts, three of which eight parts shall be and remain to his Majesty's use, unless such man of war shall be under the command of a flag officer, or commander in chief of a squadron, and in such case one fourth part of the said three parts to be and remain to the said flag officer or commander, one other eighth part to be equally divided between the Chest of Chatham, for the relief of Sick and Wounded Seamen, and the Master brethren and assistants of Trinity House, for the relief of the Widows, Children, and parents of persons slain in his Majesty's service. And the other four eight parts shall be paid to the captain or commander of the ship which took such prize, to be by him distributed and divided within fourteen days next after receipt thereof, in manner following (that is to say) one of the said four parts to the captain of the said ship, one other of the said four parts to the commission and warrant officers, master, mates and pilots, and the other two of the said four parts to and among the seamen and soldiers on board such ship when such prize was taken: But if such prize ship so taken by a man of war and condemned, as aforesaid, shall appear to be a French privateer, the same shall be sold by the captain of the ship which took the same, and the whole money arising from such sale (except so much thereof as shall be expended in proceeding against such prize in the Court of Admiralty or elsewhere) shall be divided and distributed between and among the captain, officers, masters, pilots and soldiers serving on board the said ship when such prize was taken, and the flag officer, or commander in chief, in and by such shares and proportions as is hereinbefore directed and appointed. And be it further enacted, that if such prize ship or vessel shall be taken or surprised by any privateer or privateers and condemned as aforesaid, be the same privateer or merchant ship, the same, together with the goods and merchandize therein, and the tackle and furniture belonging to such ship or vessel, shall be and remain to the captain and persons interested in such privateer or privateers, without payment of the tenth of the value of such goods or merchandize ships or vessels so made prize, or any other sum or sums of money to the Lord High Admiral of England or the Commissioners for executing the office of Lord High Admiral for the time being, or any other person or persons whatsoever,

except the usual Customs impositions and other duties which are hereby intended to be paid for all prize goods and merchandize taken, as well by privateers as men of war, and brought into England, in the same manner as other goods and merchandize do, and under the same penalties and forfeitures for not doing thereof as other goods and merchandize are by law liable to.

§ iii. And for a further encouragement to all captains, officers and others commanding or serving in any of his Majesty's ships of war, and to all his Majesty's subjects that shall fit and send out any private ship or ships of war during this present war, Be it enacted, that if any of his Majesty's said ships or privateers shall in fight take, sink, fire or otherwise destroy any ship of war or private man of war of or belonging to the French king or any of his subjects, or of any other in the actual service of the French king, the captains, officers, seamen and soldiers of such ship of war and the captains and persons interested in such privateer shall receive for a reward, ten pounds for every gun mounted in any such ship so taken, sunk, fired or destroyed, be the gun in either of the said cases iron or brass, to be paid by the Receiver General of his Majesty's Customs out of the money that shall be in his hands for the goods of his Majesty's subjects, or of others rescued from the enemy and out of his Majesty's part of the prizes; of all which the Commissioners of his Majesty's Customs are hereby required to keep a distinct account.

§ iv. And be it enacted by the authority aforesaid, that if any ship or vessel shall be taken as prize by any of his Majesty's ships of war or privateers, and carried into any place or part beyond the seas, such prize notwithstanding shall be adjudged in the High Court of Admiralty of England; but yet it shall and may be lawful for such person or persons residing in the Mediterranean, or other parts abroad, as shall be by commission from his Majesty or the said Court of Admiralty impowered in that behalf, to examine witnesses and papers, and according as the case shall appear to him or them, to proceed so far in the cause as to appraise and deliver such prize either to the captor or claimer upon bail, to stand to the determination of the said Court of Admiralty, to whom all the examinations and papers are to be forthwith transmitted, that the cause may be finally determined.

§ v. And be it further enacted, that if any ship or vessel, goods or merchandise of any of his Majesty's subjects taken by the enemy shall be re-taken by any man of war, privateer or other ship or vessel, before the same shall have been carried into any of the enemy's ports or fleets commanded by a flag officer or condemned as prize in any Admiralty Court, and the owner or owners thereof shall make sufficient proofs of the property thereof, the same shall be restored to the owner or owners, paying salvage if re-taken by a man of war, one-eighth part of the true value thereof, to be wholly divided amongst the captain, officers, seamen and commanders in chief, as before is directed in other cases; but if re-taken by a privateer, then to pay salvage one-fourth part of the true value of such re-taken ships, goods and vessels, clear of all charges.

§ vi. And be it further enacted, that the shares of prizes taken and reward hereby given to the commanders, officers, seamen and soldiers serving in any of his Majesty's ships of war, shall be in lieu and full satisfaction of all shares of prizes by them taken, as well in fight as otherwise during the present war, anything in an Act made in the thirteenth year of the late king Charles the Second intituled, Articles

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and Ordinances for the regulating and government of his Majesty's Navy, ships of war and forces by sea, or any Declaration or Orders of his Majesty to the contrary notwithstanding.

§ vii. And be it enacted, that if any of his Majesty's ships of war, or privateers or any of his Majesty's subjects in any other boat or vessel or otherwise during the continuance of this Act shall take any ship, vessel or boat laden with wool, or whereupon any wool is loaded, not having a warrant or cocket from the Officer of his Majesty's Customs, the said ship, vessel, or boat so laden, together with her lading, and all anchors, cables, rigging, furniture and apparel thereof, shall be declared good prize entirely to the captain, officers and seamen of his Majesty's ships of war, privateer or other person or persons, to be divided between them, as aforesaid, or to the persons interested in such privateer, or other person or persons as shall take the same, without any manner of deduction or payment, to be made to his Majesty, or any other person or persons whatsoever.

§ viii. And be it further enacted, that all ships and vessels taken since the beginning of this present war by any of his Majesty's men of war or privateers or otherwise, and condemned as *lawful prize, or* which shall be so taken and condemned, although *foreign built*, shall be esteemed and adjudged free, and have the privilege of English ships, the owners and proprietors of such prize ships or vessels paying such duties as have been heretofore used and paid for the making and allowing prize ships free ships of England, any law statute or usage to the contrary in any wise notwithstanding.

§ ix. And for the encouragement of fitting out large privateers, the better to annoy the enemy, Be it enacted, that when a prize shall be taken, or recapture made by two or more private men of war in company, the same prize or salvage for re-capture shall be divided amongst the said privateers in proportion to the number of guns and men in them at the time of capture or re-capture, provided that no gun on board such privateer shall be esteemed within the meaning and intention of this Act, unless such gun shall be mounted and weigh four hundred-weight and carry a three pound ball, and that two patareroe, well fixed, each with two chambers, shall be esteemed as one gun.

§ x. Provided always, and be it enacted, that if any captain, officer, mariner, seaman, or others belonging to any of his Majesty's ships of war or privateers shall embezzle, purloin, conceal and convey away, or cause or procure to be embezzled, purloined, concealed or conveyed away, any part of the rigging, tackle, sails, furniture or apparel of any prize ship or vessel, or any part or parcel of the goods or merchandize taken in the hold or between decks, laden upon freight of such prize, and sufficient proof to be thereof made in the Court of Admiralty, the persons so offending and every of them, shall forfeit their respective shares of such prizes, and treble the value of such goods and merchandize, tackle, furniture and apparel so embezzled or purloined, and suffer six months' imprisonment, without bail or mainprize, and for ever after be incapable to serve his Majesty in any office or place whatsoever; which said forfeiture for embezzlement in case the prize shall be taken by one or more of his Majesty's ships of war and condemned, shall be divided and go one moiety thereof to the informer, and the other moiety thereof to his Majesty; if taken by one or more privateers and condemned, then one moiety thereof to the informer and the other moiety thereof to the owner or owners of such privateer or privateers, paying the duties and customs for such goods and merchandize so embezzled; but if such prize shall not be condemned

but restored, then the whole forfeiture shall be and go to the person to whom such ship or vessel shall be restored; all which said forfeiture shall be recovered in the Court of Admiralty, or in any of his Majesty's Courts of Record at Westminster, by bill, plaint or information, wherein no essoine, protection, privilege or wager of law, nor more than one imparlance shall be allowed.

§ xi. And be it further enacted, that in case any ship or vessel, or any goods or merchandize of the growth, manufacture, or product of the dominions of the French King, shall be taken by any privateer, privateers, or otherwise fraudulently, by consent or collusion, the said ship or vessel, goods and merchandize so taken, as likewise such privateer, privateers, boat or vessel by which the same shall be so fraudulently taken, upon proof thereof in the Court of Admiralty, shall be declared and adjudged to be good prize and forfeited, one moiety thereof to his Majesty, and the other moiety to the informer who shall discover the same. And in case such ship or vessel, goods or merchandize as aforesaid, shall be taken fraudulently by consent or collusion of the commander or captain of any of his Majesty's ships of war, such commander shall forfeit double the value of such ship or vessel, goods or merchandize so taken, one moiety thereof to his Majesty's use, the other moiety to the informer, to be recovered by action of debt, bill, plaint, or information in any of his Majesty's Courts of Record, wherein no essoine, protection, privilege, or wager of law, nor more than one imparlance shall be allowed; and the said goods and merchandize, ship or vessel, tackle, furniture and apparel, guns and ammunition so taken by consent, fraud, or collusion, shall be and is hereby adjudged to be good prize unto his Majesty.

§ xii. And be it further enacted, that the Captain or commander in charge of any of his Majesty's ships of war or privateers who shall so take any prize by consent, fraud or collusion and be thereof lawfully convicted, shall suffer three years' imprisonment, without bail or main-prize, and for ever after be incapable to serve his Majesty in any place or office whatsoever.

§ xiii. And be it further enacted, that when any commander of a privateer or other vessel shall seize or prize and bring in any ship or vessel which upon trial shall be cleared, such commander of the privateer or other vessel, together with the said ship or vessel and the owners thereof, shall be answerable for and liable to make good to the claimers all embezzlements and damages done to or suffered by such ship or vessel brought up as aforesaid, to be recovered, together with costs of suit by action of debt, bill, plaint or information, wherein no essoine, protection, privilege or wager of law, or more than one imparlance shall be granted.

§ xiv. Provided always, and it is hereby declared and enacted, that nothing herein contained shall be taken or construed to alter or make void any article, matter, or thing contained in any league, truce or treaty, now or which shall be in force between his Majesty or any other prince, state, or government whatsoever.

§ xv. Provided always, and be it enacted by the authority aforesaid, that every ship or vessel that shall be taken by any privateer or privateers wherein any goods shall be of the growth, product or manufacture of France, the said ship or vessel, with her rigging, guns, tackle and apparel, shall, after condemnation, within three months be sold by the Commissioners of the Navy by inch of candle for the best price and advantage, and when sold, that the said Commissioners shall detain one fourth part, to be by them paid into the Chest of Chatham, for the

1695. — use of sick and wounded seamen, and the other three parts shall be paid to the use of such privateer or privateers.

No. 936. *Parchment Collection.* [Brought from the Commons this day. (L. J., XV. 565.) On the following day it was ordered to be read only in a full House (*ib.* 569, 582). On 30 April, the Bill was read 1ª, and the next day 2ª and committed to C. W. H., V. Weymouth in the Chair, where the 1st two Enacting Clauses were agreed to; and the House was ordered to be again in Committee on the Bill this day month (*ib.* 584–6; MS. Min. 1 May). The Bill dropped with the Session.]

937. April 27. Craggs and Harnage (Army Clothing Monies Discovery) Bill.—Commons' Engrossment of an Act to oblige James Craggs and Richard Harnage to discover how some of the moneys relating to the clothing the Army have been disposed of, and for punishing them in case they shall not make such discovery. Whereas for the better encouragement of his Majesty's good subjects to sustain the great payments for the prosecution of the war against France and the support of his Majesty's Government, Commissioners by authority of this present Parliament were constituted for examining, taking and stating the accounts of all moneys of the public revenue, which said Commissioners or any four or more of them were impowered to examine upon oath all persons in relation to the said accounts. And whereas James Craggs and Richard Harnage being summoned according to the powers of the said Act by four of the said Commissioners, and being required to give an account upon oath of all moneys received by them, or for their use on account of His Majesty's Army, or with relation to the clothing thereof, and how the said moneys were disposed, they the said James Craggs and Richard Harnage though they did own that they had been concerned in the clothing of several regiments of his Majesty's Army, yet did obstinately refuse to make any account upon oath of the same: And the same James Craggs did own that the books of accounts relating to that matter were in his custody or power, but declared that he would not produce the same, though thereunto required: And both the said James Craggs and Richard Harnage did positively refuse to take their oaths or answer any question relating to the said accounts: All which being a high violation and contempt of the authority of Parliament, and as much as in them lay an obstructing the enquiry into the distribution of the public revenue and may prove of very evil example, should the said crime and contempt go unpunished, Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, that in case the said James Craggs and Richard Harnage, or either of them, shall not before the tenth day of June in the year of Our Lord One thousand, six hundred ninety-five appear before four or more of the Commissioners for taking and stating the Public accounts of the kingdom, and then produce all their books of accounts relating to the clothing of his Majesty's Army, and then and there answer upon oath to such questions as by the said Commissioners shall be asked them, or either of them in relation to the accounts aforesaid, that then the said James Craggs and Richard Harnage, or either of them so offending for such their crime and misdemeanour, shall suffer imprisonment in the Tower of London, without bail or mainprize, until the tenth day of December One thousand, six hundred ninety-five, by Warrant from the Lord Chief Justice of the Court of King's Bench, or some one of the

1695. — No. 937.

Justices of that Court who is hereby required to issue his warrant for that purpose, upon Certificate under the hands of four or more of the said Commissioners. *Parchment Collection.* [Brought from the Commons this day and dropped after a first reading. L. J., XV. 572, 580. *See also* No. 930, Annex *h.*]

938. April 29. D. Leeds Impeachment (East India Company's Charter).—Articles of Impeachment exhibited by the House of Commons against Thomas, Duke of Leeds, the Lord President, for having received 5,500 guineas to use his endeavours to procure a Charter of Confirmation and a Charter of Regulations for the East India Company. L. J., XV. 582 *in extenso.* [Brought up from the Commons this day. For the evidence inculpating the Duke, see No. **930** annex (*e*). MS. Min. supplement the Journal as follows: On 1 May some words were offered to be added to the Message to the Commons (L. J., XV. 585) asking when they would be ready to make good the Articles.—On 3 May, House moved to consider of the case of the Duke of Leeds as to his Impeachment. The Precedent in 1678–9 was read, and that in 1685 also, and the Precedent in the case of Sir Adam Blair and others, 30 Oct. 1690 (comp. L. J., XV. 583–4). After the Order for securing Robart (*ib.* 588), *Moved* to declare that the Impeachment against the Duke of Leeds is at an end unless proceeded with in this Session. The Order of 19 March 1688–9 and the Precedents of 1685 and 30 Oct. 1690 read. That it be declared that the Impeachment of the Duke of Leeds doth cease unless the Commons shall prosecute the same in this Session of Parliament. The Duke of Leeds desisted from desiring the abovesaid Question.]

Annexed:—

(*a*) 30 April. Answer of Thomas, Duke of Leeds, brought in this day. L. J., XV. 584 *in extenso.*

939. May 1. Writ of Summons (L. Abergavenny).—Writ of Summons, dated 29 April, to George Nevill de Bergavenny, Ch^r., who took his Seat this day. L. J., XV. 585.

940. June 18. Prorogation.—Commission, of date, for proroguing Parliament this day to 30 July next. L. J., XV. 590–2. *In extenso.*

941. July 30. Prorogation.—Commission to prorogue Parliament to 17 Sept. L. J., XV. 592–3. *In extenso. Parchment Collection.*

942. Oct. 8. Prorogation.—Commission to prorogue Parliament to 31 Oct. L. J., XV. 595. *In extenso. Parchment Collection.*

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